

DOCUMENT 7

REGULATIONS APPLICABLE TO THE MISSOURI UST PROGRAM

Clean copies of all regulations applicable to the Missouri UST program should be attached here, including:

- (1) Rules of the Department of Natural Resources, Chapter 10, Underground Storage Tanks B Technical Regulations
- (2) Rules of the Department of Natural Resources, Chapter 11, Underground Storage Tanks B Financial Responsibility
- (3) Rules of the Department of Natural Resources, Chapter 13, Underground Storage Tanks B Administrative Penalties
- (4) Rule 52.12, Missouri Rules of Civil Procedure

Rules of
Department of Natural Resources
Division 20—Clean Water Commission
Chapter 10—Underground Storage Tanks—
Technical Regulations

Title	Page
10 CSR 20-10.010 Applicability	3
10 CSR 20-10.011 Interim Prohibition for Deferred Underground Storage Tank Systems	3
10 CSR 20-10.012 Definitions	3
10 CSR 20-10.020 Performance Standards for New Underground Storage Tank Systems	4
10 CSR 20-10.021 Upgrading of Existing Underground Storage Tank Systems	6
10 CSR 20-10.022 Notification Requirements	7
10 CSR 20-10.030 Spill and Overfill Control	7
10 CSR 20-10.031 Operation and Maintenance of Corrosion Protection	8
10 CSR 20-10.032 Compatibility	8
10 CSR 20-10.033 Repairs Allowed	8
10 CSR 20-10.034 Reporting and Recordkeeping	9
10 CSR 20-10.040 General Requirements for Release Detection for All Underground Storage Tank Systems	10
10 CSR 20-10.041 Requirements for Petroleum Underground Storage Tank Systems	10
10 CSR 20-10.042 Requirements for Hazardous Substance Underground Storage Tank Systems	11
10 CSR 20-10.043 Methods of Release Detection for Tanks	11
10 CSR 20-10.044 Methods of Release Detection for Piping	13
10 CSR 20-10.045 Release Detection Recordkeeping	13
10 CSR 20-10.050 Reporting of Suspected Releases	13
10 CSR 20-10.051 Investigation Due to Off-Site Impacts	14

10 CSR 20-10.052	Release Investigation and Confirmation Steps	14
10 CSR 20-10.053	Reporting and Cleanup of Spills and Overfills.....	14
10 CSR 20-10.060	Release Response and Corrective Action.....	15
10 CSR 20-10.061	Initial Release Response	15
10 CSR 20-10.062	Initial Abatement Measures and Site Check.....	15
10 CSR 20-10.063	Initial Site Characterization	15
10 CSR 20-10.064	Free-Product Removal	16
10 CSR 20-10.065	Investigations for Soil and Groundwater Cleanup	16
10 CSR 20-10.066	Corrective Action Plan	16
10 CSR 20-10.067	Public Participation	17
10 CSR 20-10.068	Risk-Based Clean-Up Levels.....	17
10 CSR 20-10.070	Temporary Closure.....	18
10 CSR 20-10.071	Permanent Closure and Changes in Service	19
10 CSR 20-10.072	Assessing the Site at Closure or Change in Service.....	19
10 CSR 20-10.073	Applicability to Previously Closed Underground Storage Tank Systems	19
10 CSR 20-10.074	Closure Records	19

Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 20—Clean Water Commission Chapter 10—Underground Storage Tanks—Technical Regulations

10 CSR 20-10.010 Applicability

PURPOSE: This rule defines the underground storage tanks that are subject to the requirements of this chapter. This rule contains the technical standards for underground storage tanks. This rule is designed specifically to protect the quality of groundwater in the state as well as to protect human health and the overall quality of the environment. This rule is promulgated on the authority of sections 319.100—319.137, RSMo and, as directed by this law, are based upon federal rules 40 CFR 280.10—40 CFR 280.74.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by law.

(1) The requirements of this chapter apply to all owners and operators of an underground storage tank (UST) system as defined in 10 CSR 20-10.012, except as otherwise provided in sections (2)—(4) of this rule. Any UST system listed in section (3) of this rule must meet the requirements of 10 CSR 20-10.011.

(2) The following UST systems are excluded from the requirements of this chapter:

(A) Any UST system holding hazardous wastes listed or identified in the Missouri Hazardous Waste Management Law, sections 260.350—260.434, RSMo and the rules promulgated thereunder or a mixture of hazardous waste and other regulated substances, except for waste oil as defined in 10 CSR 25-11.279;

(B) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act (33 U.S.C.A. 1251);

(C) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks;

(D) Any UST system whose capacity is one hundred ten (110) gallons or less;

(E) Any UST system that contains a *de minimis* concentration of regulated substances; and

(F) Any emergency spill or overflow containment UST system that is expeditiously emptied after use.

(3) Deferrals. Rules 10 CSR 20-10.020—10 CSR 20-10.053 and closure requirements in 10 CSR 20-10.070—10 CSR 20-10.074 do not apply to any of the following types of UST systems:

(A) Wastewater treatment tank systems;

(B) Any UST systems containing radioactive material that are regulated under the Atomic Energy Act of 1954 (42 U.S.C. 2011 and following);

(C) Any UST system that is part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under 10 CFR 50 Appendix A;

(D) Airport hydrant fuel distribution systems; and

(E) UST systems with field-constructed tanks.

(4) Deferrals. The release detection requirements of rules 10 CSR 20-10.040—10 CSR 20-10.045 do not apply to any UST systems that store fuel solely for use by emergency power generators.

AUTHORITY: sections 319.100, 319.105, 319.107, 319.111 and 319.114, RSMo 1994 and 319.109, 319.132 and 319.137, RSMo (Supp. 1995). * Original rule filed April 2, 1990, effective Sept. 28, 1990. Amended: Filed Jan. 2, 1996, effective Aug. 30, 1996.

*Original authority: 319.100, RSMo 1989, amended 1991, 1993; 319.105, RSMo 1989; 319.107, RSMo 1989, amended 1994; 319.109, RSMo 1989, amended 1995; 319.111, RSMo 1989; 319.114, RSMo 1989; 319.132, RSMo 1991, amended 1995; 319.137, RSMo 1989, amended 1993, 1995.

10 CSR 20-10.011 Interim Prohibition for Deferred Underground Storage Tank Systems

PURPOSE: This rule establishes minimum performance standards for the installation of deferred underground storage tanks.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any

interested person at a cost established by state law.

(1) No person may install an underground storage tank (UST) system listed in 10 CSR 20-10.010(3) for the purpose of storing regulated substances unless the UST system (whether of single- or double-wall construction)—

(A) Will prevent releases due to corrosion or structural failure for the operational life of the UST system;

(B) Is cathodically protected against corrosion, constructed of noncorrodible material, steel-clad with a noncorrodible material or designed in a manner to prevent the release or threatened release of any stored substance; and

(C) Is constructed or lined with material that is compatible with the stored substance.

(2) Notwithstanding section (1) of this rule, a UST system without corrosion protection may be installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life. Owners and operators must maintain records that demonstrate compliance with the requirements of this section for the remaining life of the tank.

(3) The determination in section (2) of this rule should comply with the following recommended practice: The National Association of Corrosion Engineers Standard RP-02-85, *Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems*.

AUTHORITY: sections 319.105, RSMo Supp. 1989 and 644.041, RSMo 1986. * Original rule filed April 2, 1990, effective Sept. 28, 1990.

*Original authority: 319.105, RSMo 1989 and 644.041, RSMo 1972, amended 1973.

10 CSR 20-10.012 Definitions

PURPOSE: This rule defines specific words used in this chapter.

PUBLISHER'S NOTE: The publication of the full text of the material that the adopting agency has incorporated by reference in this rule would be unduly cumbersome or expensive. Therefore, the full text of that material will be made available to any interested person at both the Office of the Secretary of State and the office of the adopting agency, pursuant to section 536.031.4, RSMo. Such

material will be provided at the cost established by state law.

(1) Many definitions relevant to this rule are set forth in the underground storage tank law in section 319.100, RSMo. The definitions set forth in 40 CFR 280.12, July 1, 1998, are incorporated by reference, subject to the following additions, modifications, substitutions or deletions in the subsections:

(A) Definitions beginning with the letter A. (Reserved)

(B) Definitions beginning with the letter B. (Reserved);

(C) Definitions beginning with the letter C.

1. To the definition of "CERCLA" at 40 CFR 280.12, incorporated in this rule, add the words "by the Superfund Amendments and Reauthorization Act of 1986" after the words "as amended";

(D) Definitions beginning with the letter D.

1. "De minimus" means—

A. Any volume of regulated substance(s) contained in a tank with a capacity of less than one hundred ten (110) gallons; or

B. A very low concentration of regulated substances; or

C. Any volume of regulated substance(s) contained in an emergency backup tank that holds regulated substances for only a short period of time and is expeditiously emptied after use. (Comment: *De minimus* tanks include: swimming pools, permitted wastewater treatment facilities and chlorinated, potable water storage tanks. An oil-water separator is not a *de minimus* system unless the tank has a less than one hundred ten (110) gallon capacity.)

2. "Department," unless otherwise stated, means the Missouri Department of Natural Resources;

(E) Definitions beginning with the letter E.

1. In the definition for "existing tank system" in 40 CFR 280.12 incorporated in this rule, substitute the date "September 28, 1990" for the date "December 22, 1988";

(F) Definitions beginning with the letter F. (Reserved);

(G) Definitions beginning with the letter G. (Reserved);

(H) Definitions beginning with the letter H.

1. This definition shall apply in lieu of the definition of "hazardous substance UST system" in 40 CFR 280.12 incorporated in this rule. "Hazardous substance UST system" means a UST system that contains a hazardous substance defined in Section 101(14) of the CERCLA (but not including any substance regulated as a hazardous waste under

the Missouri Hazardous Waste Management Law, sections 260.350–260.434, RSMo) or any mixture of these substances and petroleum, and which is not a petroleum UST system;

(I) Definitions beginning with the letter I.

1. The definition for "implementing agency" in 40 CFR 280.12 is not incorporated into this rule.

2. The terms "in-operation," "in-service," and "in-use" are equivalent and mean input or output that occurs on a regular basis for the tank's intended purpose. In determining the status of a tank, the department may consider factors including, but not limited to: routine input or outputs from the tank and the activity status of tank-related operations at the premises where the tank is located. A tank is considered to be in-operation, in-service, and in-use beginning with the first input of a regulated substance into the tank system;

(J) Definitions beginning with the letter J. (Reserved);

(K) Definitions beginning with the letter K. (Reserved);

(L) Definitions beginning with the letter L. (Reserved);

(M) Definitions beginning with the letter M. (Reserved);

(N) Definitions beginning with the letter N.

1. In the definition for "new tank system" in 40 CFR 280.12 incorporated in this rule, substitute the date "September 28, 1990" for the date "December 22, 1988";

(O) Definitions beginning with the letter O.

1. In the definition for "operational life" in 40 CFR 280.12 incorporated in this rule, substitute "10 CSR 20-10.070–10 CSR 20-10.074" for "Subpart G."

2. The term "out-of-operation," "out-of-service," and "out-of-use" are equivalent and mean input or output activity no longer occurs on a regular basis for the tank's intended purpose.

3. The definition for "owner" in 40 CFR 280.12, is not incorporated in this rule and the definition in section 319.100(9), RSMo, shall be used instead;

(P) Definitions beginning with the letter P.

1. The definition for "person" in 40 CFR 280.12 is not incorporated in this rule and the definition in section 319.100(11), RSMo, shall be used instead;

(Q) Definitions beginning with the letter Q. (Reserved);

(R) Definitions beginning with the letter R.

1. The definition for "regulated substance" in 40 CFR 280.12 is not incorporated in this rule, and the definition in section 319.100(14), RSMo, shall be used instead.

2. The definition for "release" in 40 CFR 280.12 is not incorporated in this rule, and the definition in section 319.100(15), RSMo, shall be used instead;

(S) Definitions beginning with the letter S.

1. In lieu of the definition for "septic tank" in 40 CFR 280.12, the definition for "septic tank" shall be any watertight, covered receptacle designed and constructed to receive the discharge of sewage, separate solids from liquid, digest organic matter, store liquids through a period of detention and allow the clarified liquids to discharge to a soil treatment system;

(T) Definitions beginning with the letter T. (Reserved);

(U) Definitions beginning with the letter U.

1. In the definition of "upgrade" in 40 CFR 280.12 incorporated in this rule, substitute the words "regulated substance" for the word "product."

2. The definition for "underground storage tank" or "UST" found in 40 CFR 280.12 is not incorporated in this rule, and the definition in section 319.100(16), RSMo, shall be used instead;

(V) Definitions beginning with the letter V. (Reserved);

(W) Definitions beginning with the letter W. (Reserved);

(X) Definitions beginning with the letter X. (Reserved);

(Y) Definitions beginning with the letter Y. (Reserved);

(Z) Definitions beginning with the letter Z. (Reserved).

AUTHORITY: sections 319.105, 319.107, 319.111 and 319.114, RSMo 1994 and 319.100, 319.109, 319.132 and 319.137, RSMo Supp. 1998.* Original rule filed April 2, 1990, effective Sept. 28, 1990. Amended: Filed Dec. 31, 1991, effective Aug. 6, 1992. Amended: Filed Jan. 2, 1996, effective Aug. 30, 1996. Amended: Filed Jan. 14, 1997, effective Sept. 30, 1997. Amended: Filed April 1, 1999, effective March 30, 2000.

*Original authority: 319.100, RSMo 1989, amended 1991, 1993, 1996, 1998; 319.105, RSMo 1989; 319.107, RSMo 1986, amended 1994; 319.109, RSMo 1989, amended 1995; 319.111, RSMo 1989; 319.114, RSMo 1989; 319.132, RSMo 1991, amended 1995, 1996, 1998; and 319.137, RSMo 1989, amended 1993, 1995.

10 CSR 20-10.020 Performance Standards for New Underground Storage Tank Systems

PURPOSE: This rule sets the standards for tanks, piping, spill and overfill prevention equipment, installation and certification of

installation that new underground storage tanks must meet.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the rule has been filed with the secretary of state. The entire text of the rule may be found at the headquarters of the agency and is available to any interested person at a cost established by state law. The form mentioned in this rule follows 10 CSR 20-10.022.

(1) In order to prevent releases due to structural failure, corrosion or spills and overfills for as long as the underground storage tank (UST) system is used to store regulated substances, all owners and operators of new UST systems must meet the following requirements:

(A) Tanks. Each tank must be properly designed and constructed, and any portion underground that routinely contains product must be protected from corrosion, in accordance with a code of practice developed by a nationally-recognized association or independent testing laboratory as follows:

1. The tank is constructed of fiberglass-reinforced plastic and complies with one (1) or more of the following industry codes:

A. Underwriters' Laboratories Standard 1316, *Standard for Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products*; or

B. American Society of Testing and Materials Standard D4021-86, *Standard Specification for Glass-Fiber-Reinforced Polyester Underground Petroleum Storage Tanks*; or

2. The tank is constructed of steel and cathodically protected in the following manner:

A. The tank is coated with a suitable dielectric material;

B. Field-installed cathodic protection systems are designed by a corrosion expert;

C. Impressed current systems are designed to allow determination of current operating status as required in 10 CSR 20-10.031(1)(C);

D. Cathodic protection systems are operated and maintained in accordance with 10 CSR 20-10.031 or according to guidelines established by the department; and

E. The following codes and standards may be used to comply with paragraph (1)(A)2. of this rule:

(I) Steel Tank Institute *Specification for STI-P3 System of External Corrosion*

Protection of Underground Steel Storage Tanks;

(II) Underwriters' Laboratories Standard 1746, *Corrosion Protection Systems for Underground Storage Tanks*;

(III) National Association of Corrosion Engineers Standard RP-02-85, *Control of External Corrosion on Metallic Buried, Partially Buried or Submerged Liquid Storage Systems*;

(IV) Underwriters' Laboratories Standard 58, *Standard for Steel Underground Tanks for Flammable and Combustible Liquids*;

3. The tank is constructed of a steel, fiberglass-reinforced plastic composite that complies with one (1) of the following industry codes:

A. Underwriters' Laboratories Standard 1746, *Corrosion Protection Systems for Underground Storage Tanks*; or

B. The Association for Composite Tanks ACT-100, *Specification for the Fabrication of FRP Clad Underground Storage Tanks*;

4. The tank is constructed of metal without additional corrosion protection measures provided that—

A. The tank is installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life; and

B. Owners and operators maintain records that demonstrate compliance with the requirements of subparagraph (1)(B)4.A. of this rule for the remaining life of the tank; or

5. The tank construction and corrosion protection are determined by the department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than paragraphs (1)(A)1.—4. of this rule;

(B) Piping. The piping that routinely contains regulated substances and is in contact with the ground must be properly designed, constructed and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as follows:

1. The piping is constructed of fiberglass-reinforced plastic;

2. The following codes and standards may be used to comply with paragraph (1)(B)1. of this rule:

A. Underwriters' Laboratories Subject 971, *UL Listed Non-Metal Pipe*; and

B. Underwriters' Laboratories Standard 567, *Pipe Connectors for Flammable and Combustible and LP Gas*;

3. The piping is constructed of steel and cathodically protected in the following manner:

A. The piping is coated with a suitable dielectric material;

B. Field-installed cathodic protection systems are designed by a corrosion expert;

C. Impressed current systems are designed to allow determination of current operating status as required in 10 CSR 20-10.031(1)(C);

D. Cathodic protection systems are operated and maintained in accordance with 10 CSR 20-10.031; and

E. The following codes and standards may be used to comply with paragraph (1)(B)3. of this rule:

(I) National Fire Protection Association Standard 30, *Flammable and Combustible Liquids Code*;

(II) American Petroleum Institute Publication 1615, *Installation of Underground Petroleum Storage Systems*;

(III) American Petroleum Institute Publication 1632, *Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems*; and

(IV) National Association of Corrosion Engineers Standard RP-01-69, *Control of External Corrosion on Submerged Metallic Piping Systems*;

4. The piping is constructed of metal without additional corrosion protection measures provided that—

A. The piping is installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life; and

B. Owners and operators maintain records that demonstrate compliance with the requirements of subparagraph (1)(A)4.A. of this rule for the remaining life of the tank;

5. The following codes may be used to comply with paragraph (1)(B)4. of this rule:

A. National Fire Protection Association Standard 30, *Flammable and Combustible Liquids Code*; and

B. National Association of Corrosion Engineers Standard RP-01-69, *Control of External Corrosion on Submerged Metallic Piping Systems*; or

6. The piping construction and corrosion protection are determined by the department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements in paragraphs (1)(B)1.—5. of this rule;

(C) Spill and Overfill Prevention Equipment.

1. Except as provided in paragraph (1)(C)2. of this rule, to prevent spilling and overfilling associated with product transfer to the UST system, owners and operators must use the following spill and overfill prevention equipment:

A. Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (for example, a spill catchment basin); and

B. Overfill prevention equipment that will—

(I) Automatically shut off flow into the tank when the tank is no more than ninety-five percent (95%) full;

(II) Alert the transfer operator when the tank is no more than ninety percent (90%) full by restricting the flow into the tank or triggering a high-level alarm; or

(III) Restrict flow thirty (30) minutes prior to overfilling, alert the operator with a high level alarm one (1) minute before overfilling or automatically shut off flow into the tank so that none of the fittings located on top of the tank are exposed to product due to overfilling.

2. Owners and operators are not required to use the spill and overfill prevention equipment specified in paragraph (1)(C)1. of this rule if—

A. Alternative equipment is used that is determined by the department to be no less protective of human health and the environment than the equipment specified in subparagraph (1)(C)1.A. or B. of this rule; or

B. The UST system is filled by transfers of no more than twenty-five (25) gallons at one time;

(D) Installation. All tanks and piping must be properly installed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions. Tank and piping system installation practices and procedures described in the following codes may be used to comply with the requirements of subsection (1)(D) of this rule:

1. American Petroleum Institute Publication 1615, *Installation of Underground Petroleum Storage System*; or

2. Petroleum Equipment Institute Publication RP100, *Recommended Practices for Installation of Underground Liquid Storage Systems*; and

(E) Certification of Installation. All owners and operators must ensure that one (1) or more of the following methods of certification, testing or inspection is used to demonstrate compliance with subsection (1)(D) of this rule by providing a certification of com-

pliance on the UST notification form in accordance with 10 CSR 20-10.022:

1. The installer has been certified by the tank and piping manufacturers;

2. The installer has been certified or licensed by the department;

3. The installation has been inspected and certified by a registered professional engineer with education and experience in UST system installation;

4. The installation has been inspected and approved by the department;

5. All work listed in the manufacturer's installation checklists has been completed; or

6. The owner and operator have complied with another method for ensuring compliance with subsection (1)(D) of this rule that is determined by the department to be no less protective of human health and the environment.

*AUTHORITY: sections 319.105, RSMo Supp. 1989 and 644.041, RSMo 1986. * Original rule filed April 2, 1990, effective Sept. 28, 1990.*

**Original authority: 319.105, RSMo 1989 and 644.041, RSMo 1972, amended 1973.*

10 CSR 20-10.021 Upgrading of Existing Underground Storage Tank Systems

PURPOSE: This rule contains the options for upgrading existing underground storage tanks for continued operation after December 22, 1998.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) Alternatives Allowed. No later than December 22, 1998, all existing underground storage tank (UST) systems must comply with one (1) of the following requirements:

(A) New UST system performance standards in 10 CSR 20-10.020;

(B) The upgrading requirements in sections (2)–(4) of this rule; or

(C) Closure requirements in 10 CSR 20-10.070–10 CSR 20-10.074, including applicable requirements for corrective action in 10 CSR 20-10.060–10 CSR 20-10.067.

(2) Tank Upgrading Requirements. Steel tanks must be upgraded to meet one (1) of the following requirements in accordance with a code of practice developed by a nationally-recognized association or independent testing laboratory:

(A) Interior Lining. A tank may be upgraded by internal lining if—

1. The lining is installed in accordance with the requirements of 10 CSR 20-10.033; and

2. Within ten (10) years after lining, and every five (5) years after that, the lined tank is internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications;

(B) Cathodic Protection. A tank may be upgraded by cathodic protection if the cathodic protection system meets the requirements of the performance standards for new UST systems in 10 CSR 20-10.020(1)(A)2. B.–D. and the integrity of the tank is ensured using one (1) of the following methods:

1. The tank is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion holes prior to installing the cathodic protection system;

2. The tank has been installed for less than ten (10) years and is monitored monthly for releases in accordance with release detection methods 10 CSR 20-10.043(1)(D)–(H);

3. The tank has been installed for less than ten (10) years and is assessed for corrosion holes by conducting two (2) tightness tests that meet the requirements of release detection method 10 CSR 20-10.043(1)(C). The first tightness test must be conducted prior to installing the cathodic protection system. The second tightness test must be conducted between three and six (3–6) months following the first operation of the cathodic protection system; or

4. The tank is assessed for corrosion holes by a method that is determined by the department to prevent releases in a manner that is no less protective of human health and the environment than paragraphs (2)(B)1.–3. of this rule; and

(C) Internal Lining Combined With Cathodic Protection. A tank may be upgraded by both internal lining and cathodic protection if—

1. The lining is installed in accordance with the requirements of 10 CSR 20-10.033; and

2. The cathodic protection system meets the requirements of 10 CSR 20-10.020(1)(A) 2.B.–D.

(3) Piping Upgrading Requirements. Metal piping that routinely contains regulated substances and is in contact with the ground must be cathodically protected in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and must meet the requirements of 10 CSR 20-10.020(1)(B)3.B.-D.

(4) Spill and Overfill Prevention Equipment. To prevent spilling and overfilling associated with product transfer to the UST system, all existing UST systems must comply with new UST system spill and overfill prevention equipment requirements specified in 10 CSR 20-10.020(1)(C).

(5) The following codes and standards may be used to comply with this rule:

(A) American Petroleum Institute Publication 1631, *Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks*;

(B) National Association of Corrosion Engineers Standard RP-02-85, *Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems*; and

(C) American Petroleum Institute Publication 1632, *Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems*.

AUTHORITY: sections 319.105, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993.* Original rule filed April 2, 1990, effective Sept. 28, 1990.

*Original authority: 319.105, RSMo 1989 and 644.026, RSMo 1972, amended 1973, 1987, 1993.

10 CSR 20-10.022 Notification Requirements

PURPOSE: This rule specifies the registration procedures for underground storage tanks.

(1) Any owner who intends to install an underground storage tank (UST) system after October 28, 1990, must, at least thirty (30) days before installing the tank, notify the department by letter of the intent to install a UST. The letter must provide the owner's name, the name and location of the facility where the UST will be installed, the date that the installation is expected to commence and the date that the tank is expected to be brought in-use.

(2) Any owner who brings a UST system in-use after September 28, 1990, must, within

thirty (30) days of bringing the tank in-use, register the completed UST system on forms provided by the department. Note: Owners and operators of UST systems that were in the ground on or after May 8, 1986, unless taken out-of-operation on or before January 1, 1974, were required to notify the state in accordance with the Hazardous and Solid Waste Amendments of 1984, P.L. 98-616, on a form published by Environmental Protection Agency (EPA) on November 8, 1985 (50 FR 46602), unless notice was given pursuant to section 103(c) of Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). Owners and operators who have not complied with the notification requirements may use forms provided by the department.

(3) Notices required to be submitted under section (2) of this rule must provide all of the information requested in the form provided by the department for each UST.

(4) All owners and operators of new UST systems must certify in the notification form compliance with the following requirements:

(A) Installation of tanks and piping in 10 CSR 20-10.020(1)(E);

(B) Cathodic protection of steel tanks and piping under 10 CSR 20-10.020(1)(A) and (B);

(C) Financial responsibility in 10 CSR 20-11.090 through 10 CSR 20-11.112; and

(D) Release detection in 10 CSR 20-10.041 and 10 CSR 20-10.042.

(5) An owner/operator shall complete and file an updated registration form if the owner information or information regarding tank equipment and operation, as reported on the current registration with the department, changes.

(6) All owners and operators of new UST systems must ensure that the installer certifies in the notification form that the methods used to install the tanks and piping comply with the requirements in 10 CSR 20-10.020(1)(D).

(7) The department shall issue a Certificate of Registration for any tanks which meet the requirements in sections (1) through (5) of this rule and 10 CSR 20-10.020 and 10 CSR 20-10.021. The Certificate of Registration shall be valid for five (5) years except as described in section (8) of this rule.

(8) The department shall establish effective dates and expiration dates for Certificates of Registration issued under this rule. These dates shall establish a period of from one to five (1-5) years for an initial Certificate of

Registration and a period of five (5) years for subsequent Certificates of Registration.

(9) Information submitted to the department after January 1, 1990, under sections (1) through (6) of this rule for a tank brought into use before January 1, 1990, or for a tank brought into use after September 28, 1990, is an application for a Certificate of Registration and shall be accompanied by a fee as described in section (10), except as described in section (11).

(10) Fees required under section (9) of this rule shall be paid in one (1) payment of seventy-five dollars (\$75). No fees shall be collected for registration of tanks which were permanently closed prior to August 28, 1989. No further fees shall be assessed upon registered USTs once permanent closure has been completed and any fees to date have been paid.

(11) The department may waive part of the thirty (30)-day prior notice required in section (1) for reasons including, but not limited to, weather, contractual arrangements, department inspection scheduling and availability of tank service vendors. A request for a waiver must accompany the information required under section (1) of this rule.

AUTHORITY: sections 319.103 and 319.123, RSMo 1994 and 319.137, RSMo Supp. 1998.* Original rule filed April 2, 1990, effective Sept. 28, 1990. Amended: Filed June 1, 1995, effective Jan. 30, 1996. Amended: Filed Jan. 2, 1996, effective Aug. 30, 1996. Amended: Filed Jan. 14, 1997, effective Sept. 30, 1997. Amended: Filed April 1, 1999, effective March 30, 2000.

*Original authority: 319.103, RSMo 1989; 319.123, RSMo 1989; 319.137, RSMo 1989, amended 1993, 1995.

10 CSR 20-10.030 Spill and Overfill Control

PURPOSE: This rule is designed to prevent releases during routine filling of the underground storage tank with product.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) Owners and operators must ensure that releases due to spilling or overfilling do not occur. The owner and operator must ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling.

(2) The owner and operator must report, investigate and cleanup any spills and overfills in accordance with 10 CSR 20-10.053.

(3) Guidance on spill and overfill prevention appears in the—

(A) American Petroleum Institute Publication 1621, *Recommended Practice for Bulk Liquid Stock Control at Retail Outlets*; and

(B) National Fire Protection Association Standard 30, *Flammable and Combustible Liquids Code*.

AUTHORITY: sections 319.105, RSMo Supp. 1989 and 644.041, RSMo 1986.* Original rule filed April 2, 1990, effective Sept. 28, 1990.

*Original authority: 319.105, RSMo 1989 and 644.041, RSMo 1972, amended 1973.

10 CSR 20-10.031 Operation and Maintenance of Corrosion Protection

PURPOSE: This rule contains the requirements for corrosion protection systems.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) All owners and operators of steel underground storage tank (UST) systems with corrosion protection must comply with the following requirements to ensure that releases due to corrosion are prevented for as long as the UST system is used to store regulated substances.

(A) All corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground.

(B) All UST systems equipped with cathodic protection systems must be inspect-

ed for proper operation by a qualified cathodic protection tester in accordance with the following requirements:

1. Frequency. All cathodic protection systems must be tested within six (6) months of installation and at least every three (3) years after that or according to another reasonable time frame established by the department; and

2. Inspection criteria. The criteria that are used to determine that cathodic protection is adequate as required by this section must be in accordance with a code of practice developed by a nationally recognized association listed in section (2) of this rule.

(C) UST systems with impressed current cathodic protection systems must also be inspected every sixty (60) days to ensure the equipment is running properly; and

(D) For UST systems using cathodic protection, records of the operation of the cathodic protection must be maintained (in accordance with 10 CSR 20-10.034) to demonstrate compliance with the performance standards in this rule. These records must provide the following:

1. The results of the last three (3) inspections required in subsection (1)(C) of this rule; and

2. The results of testing from the last two (2) inspections required in subsection (1)(B) of this rule.

(2) National Association of Corrosion Engineers Standard RP-02-85, *Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems*, may be used to comply with paragraph (1)(B)2. of this rule.

AUTHORITY: sections 319.105, RSMo Supp. 1989 and 644.041, RSMo 1986.* Original rule filed April 2, 1990, effective Sept. 28, 1990.

*Original authority: 319.105, RSMo (1989) and 644.041, RSMo (1972), amended 1973.

10 CSR 20-10.032 Compatibility

PURPOSE: This rule prevents releases caused by chemical action on the underground storage tank system by the stored product.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the head-

quarters of the agency and is available to any interested person at a cost established by state law.

(1) Owners and operators must use an underground storage tank (UST) system made of or lined with materials that are compatible with the substance stored in the UST system.

(2) Owners and operators storing alcohol blends may use the following codes to comply with the requirements of this section:

(A) American Petroleum Institute Publication 1626, *Storage and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations*; and

(B) American Petroleum Institute Publication 1627, *Storage and Handling of Gasoline-Methanol/Cosolvent Blends at Distribution Terminals and Service Stations*.

AUTHORITY: sections 319.105, RSMo Supp. 1989 and 644.041, RSMo 1986.* Original rule filed April 2, 1990, effective Sept. 28, 1990.

*Original authority: 319.105, RSMo 1989 and 644.041, RSMo 1972, amended 1973.

10 CSR 20-10.033 Repairs Allowed

PURPOSE: This rule describes methods for repair of underground storage tank systems.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) Owners and operators of underground storage tank (UST) systems must ensure that repairs will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances.

(2) The repairs must meet the following requirements:

(A) Repairs to UST systems must be properly conducted in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory.

1. The following codes and standards may be used to comply with subsection (2)(A) of this rule:

A. National Fire Protection Association Standard 30, *Flammable and Combustible Liquids Code*;

B. American Petroleum Institute Publication 2200, *Repairing Crude Oil, Liquefied Petroleum Gas, and Product Pipelines*;

C. American Petroleum Institute Publication 1631, *Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks*; and

D. National Leak Prevention Association Standard 631, *Spill Prevention, Minimum 10-Year Life Extension of Existing Steel Underground Tanks by Lining Without the Addition of Cathodic Protection*;

(B) Repairs to fiberglass-reinforced plastic tanks may be made by the manufacturer's authorized representatives or in accordance with a code of practice developed by a nationally-recognized association or an independent testing laboratory;

(C) Metal pipe sections and fittings that have released product as a result of corrosion or other damage must be replaced. Fiberglass pipes and fittings may be repaired in accordance with the manufacturer's specifications;

(D) Repaired tanks and piping must be tightness tested in accordance with release detection methods 10 CSR 20-10.043(1)(C) and 10 CSR 20-10.044(1)(B) within thirty (30) days following the date of the completion of the repair, except as provided in the following paragraphs—

1. The repaired tank is internally inspected in accordance with a code of practice developed by a nationally-recognized association or an independent testing laboratory;

2. The repaired portion of the UST system is monitored monthly for releases by one (1) of the release detection methods in 10 CSR 20-10.043(1)(D)–(H); or

3. Another test method is used that is determined by the department to be no less protective of human health and the environment than those listed in paragraphs (2)(D)1. and 2.;

(E) Within six (6) months following the repair of any cathodically protected UST system, the cathodic protection system must be tested with the methods for operation and maintenance of corrosion protection in 10 CSR 20-10.031(1)(B) and (C) to ensure that it is operating properly; and

(F) UST system owners and operators must maintain records of each repair for the remaining operating life of the UST system that demonstrate compliance with the requirements of this rule.

AUTHORITY: sections 319.105, RSMo Supp. 1989 and 644.041, RSMo 1986. * Original rule filed April 2, 1990, effective Sept. 28, 1990.

*Original authority: 319.105, RSMo 1989 and 644.041, RSMo 1972, amended 1973.

10 CSR 20-10.034 Reporting and Record-keeping

PURPOSE: This rule explains how the owner and operator must keep records demonstrating compliance with the requirements of this chapter. These records must be furnished to the department on request.

(1) Owners and operators of underground storage tank (UST) systems must cooperate fully with inspections, monitoring and testing conducted by the department, as well as requests for document submission, testing and monitoring by the owner or operator.

(A) Reporting. Owners and operators must submit the following information to the department:

1. Notification for all UST systems by the notification requirements in 10 CSR 20-10.022;

2. Reports of all releases including suspected releases (10 CSR 20-10.050), spills and overfills (10 CSR 20-10.053) and confirmed releases (10 CSR 20-10.061);

3. Corrective actions planned or taken including initial abatement measures (10 CSR 20-10.062), initial site characterization (10 CSR 20-10.063), free product removal (10 CSR 20-10.064), investigation of soil and groundwater cleanup (10 CSR 20-10.065) and corrective action plan (10 CSR 20-10.066); and

4. A notification before permanent closure or change in service (10 CSR 20-10.071).

(B) Recordkeeping. Owners and operators must maintain the following information:

1. A corrosion expert's analysis of site corrosion potential if corrosion protection equipment is not used (10 CSR 20-10.020(1)(A)4. and (B)4.);

2. Documentation of operation of corrosion protection equipment (10 CSR 20-10.031);

3. Documentation of UST system repairs (10 CSR 20-10.033(2)(F));

4. Recent compliance with release detection requirements (10 CSR 20-10.045); and

5. Results of the site investigation conducted at permanent closure (10 CSR 20-10.074).

(C) Availability and Maintenance of Records. Owners and operators must keep the records required either—

1. At the UST site and immediately available for inspection by the department; or

2. At a readily available alternative site and be provided for inspection to the department within three (3) working days or five (5) calendar days upon receipt of a written request. A written request shall be made in the following manner:

A. The department shall provide a written request at the time of inspection to site personnel; or

B. In the cases of unattended sites or inspections conducted after normal business hours (8:00 a.m. to 5:00 p.m., local time, Monday through Friday), written notice shall be made by certified mail; or

3. If the owner or operator fails to meet the requirements of paragraph (1)(C)2., the department may order or otherwise require that owner or operator to maintain records on-site per paragraph (1)(C)1.; or

4. In the case of permanent closure records required under 10 CSR 20-10.074, owners and operators are also provided with the additional alternative of mailing closure records to the department if they cannot be kept at the site or an alternative site as indicated in this section.

DEPARTMENT OF NATURAL RESOURCES DIVISION OF ENVIRONMENTAL QUALITY WATER POLLUTION CONTROL PROGRAM

file: _____ County
UT _____

REQUEST FOR RECORDS UNDERGROUND STORAGE TANK INSPECTION

Date: _____
Time: _____

Pursuant to 10 CSR 20-10.034(1)(C)2. the Department of Natural Resources requests the records concerning the underground storage tanks facility located at:

Facility name: _____

Facility address: _____
be provided to Missouri Department of
Natural Resources

_____ Office

Mailing address: _____



Street address: _____

(City) (State) (Zip Code)

within three (3) working days or five (5) calendar days of this notice.

This request was made on _____

(Date & Time)

by: _____

(Inspector name)

(Inspector office)

(Inspector phone)

and was given to: _____

(Site person name)

Signed: _____

(Inspector)

AUTHORITY: sections 319.107, RSMo Supp. 1989 and 644.021, RSMo 1986.* Original rule filed April 2, 1990, effective Sept. 28, 1990. Amended: Filed Aug. 3, 1993, effective April 9, 1994.

*Original authority: 319.107, RSMo 1989 and 644.021, RSMo 1972, amended 1973.

10 CSR 20-10.040 General Requirements for Release Detection for All Underground Storage Tank Systems

PURPOSE: This rule outlines the minimum requirements for leak and spill detection systems.

(1) Owners and operators of new and existing underground storage tank (UST) systems must provide a method, or combination of methods, of release detection that—

(A) Can detect a release from any portion of the tank and the connected underground piping that routinely contains product;

(B) Is installed, calibrated, operated and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition; and

(C) Meets the performance requirements for tanks in 10 CSR 20-10.043 or for piping in 10 CSR 20-10.044, with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, methods used after December 22, 1990, except for

methods permanently installed prior to that date, must be capable of detecting the leak rate or quantity specified for that tank method in 10 CSR 20-10.043(1)(B)-(D) or piping method in 10 CSR 20-10.044(1)(A) and (B) with a probability of detection of ninety-five percent (95%) and a probability of false alarm of five percent (5%).

(2) When a release detection method for tanks in 10 CSR 20-10.043 or for piping in 10 CSR 20-10.044 indicates a release may have occurred, owners and operators must notify the department in accordance with 10 CSR 20-10.050—10 CSR 20-10.053.

(3) Owners and operators of all UST systems must comply with the release detection requirements of 10 CSR 20-10.040—10 CSR 20-10.045 by the following dates based on the year of installation:

(A) December 22, 1990 for all existing pressurized piping;

(B) September 28, 1990 for USTs installed before 1965, or of unknown age;

(C) December 22, 1990 for USTs installed during 1965–1969;

(D) December 22, 1991 for USTs installed during 1970–1974;

(E) December 22, 1992 for USTs installed during 1975–1979;

(F) December 22, 1993 for USTs installed during 1980–September 28, 1990; and

(G) Immediately upon installation for any USTs installed after September 28, 1990.

(4) Any existing UST system that cannot apply a method of release detection that complies with the requirements of 10 CSR 20-10.040–10 CSR 20-10.045 must complete the closure procedures in 10 CSR 20-10.070–10 CSR 20-10.074 by the date on which release detection is required for that UST system under section (3) of this rule.

AUTHORITY: sections 319.107 Supp. 1989 and 644.026, RSMo Supp. 1993.* Original rule filed April 2, 1990, effective Sept. 28, 1990. Amended: Filed Aug. 3, 1993, effective April 9, 1994.

*Original authority: 319.107, RSMo 1989 and 644.026, RSMo 1972, amended 1973, 1987, 1993.

10 CSR 20-10.041 Requirements for Petroleum Underground Storage Tank Systems

PURPOSE: This rule outlines the options for leak detection at petroleum underground storage tanks.

(1) Owners and operators of petroleum underground storage tanks (UST) systems must provide release detection for tanks and piping as follows:

(A) Tanks. Tanks must be monitored at least every thirty (30) days for releases using one (1) of the methods listed in 10 CSR 20-10.043(1)(D)–(H) except that—

1. UST systems that meet new or upgraded standards in 10 CSR 20-10.020 or 10 CSR 20-10.021 and the monthly inventory control requirements in 10 CSR 20-10.043(1)(A) or (B) may use tank tightness testing (10 CSR 20-10.043(1)(C)) at least every five (5) years until December 22, 1998 or until ten (10) years after the tank is installed or upgraded under 10 CSR 20-10.021(2), whichever is later;

2. UST systems that do not meet the performance standards in 10 CSR 20-10.020 or 10 CSR 20-10.021 may use monthly inventory controls (10 CSR 20-10.043(1)(A) or (B)) and annual tank tightness testing (10 CSR 20-10.043(1)(C)) until December 22, 1998, when the tank must be upgraded under 10 CSR 20-10.021 or permanently closed under 10 CSR 20-10.071; and

3. Tanks with capacity of five hundred fifty (550) gallons or less may use manual tank gauging (10 CSR 20-10.043(1)(B)); and

(B) Piping. Underground piping that routinely contains regulated substances must be monitored for releases in a manner that meets one (1) of the following requirements:

1. Pressurized piping. Underground piping that conveys regulated substances under pressure must—

A. Be equipped with an automatic line leak detector in 10 CSR 20-10.044(1)(A); and

B. Have an annual line tightness test conducted in accordance with 10 CSR 20-10.044(1)(B) or have monthly monitoring conducted in accordance with 10 CSR 20-10.044(1)(C); and

2. Suction piping. Underground piping that conveys regulated substances under suction must either have a line tightness test conducted at least every three (3) years and in accordance with 10 CSR 20-10.044(1)(B) or use a monthly monitoring method conducted in accordance with 10 CSR 20-10.044(1)(C). No release detection is required for suction piping that is designed and constructed to meet the following standards:

A. The below-grade piping operates at less than atmospheric pressure;

B. The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;

C. Only one (1) check valve is included in each suction line;

D. The check valve is located directly below and as close as practical to the suction pump; and

E. A method is provided that allows compliance with subparagraphs (1)(B)2.A.—D. of this rule to be readily determined (for example, the check valve can be visually inspected).

AUTHORITY: sections 319.107, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993.* Original rule filed April 2, 1990, effective Sept. 28, 1990.

*Original authority: 319.107, RSMo 1989 and 644.026, RSMo 1972, amended 1973, 1987, 1993.

10 CSR 20-10.042 Requirements for Hazardous Substance Underground Storage Tank Systems

PURPOSE: This rule outlines the standards for leak detection on hazardous substance underground storage tanks.

(1) Owners and operators of hazardous substance underground storage tank (UST) systems must provide release detection that meets the following requirements:

(A) Release detection at existing UST systems must meet the requirements for petroleum UST systems in 10 CSR 20-10.041. By December 22, 1998, all hazardous substance UST systems must meet the release detection requirements for new systems in subsection (1)(B) of this rule;

(B) Release detection at new hazardous substance UST systems must meet the following requirements:

1. Secondary containment systems must be designed, constructed and installed to—

A. Contain regulated substances released from the tank system until they are detected and removed;

B. Prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and

C. Be checked for evidence of a release at least every thirty (30) days;

2. Double-walled tanks must be designed, constructed and installed to—

A. Contain a release from any portion of the inner tank within the outer wall; and

B. Detect the failure of the inner wall;

3. External liners (including vaults) must be designed, constructed and installed to—

A. Contain one hundred percent (100%) of the capacity of the largest tank within its boundary;

B. Prevent the interference of precipitation or groundwater intrusion with the ability to contain or detect a release of regulated substances; and

C. Surround the tank completely (that is, it is capable of preventing lateral as well as vertical migration of regulated substances);

4. Underground piping must be equipped with secondary containment that satisfies the requirements of paragraph (1)(B)1. of this rule (for example, trench liners, jacketing of double-walled pipe). In addition, underground piping that conveys regulated substances under pressure must be equipped with an automatic line leak detector in 10 CSR 20-10.044(1)(A); and

5. Other methods of release detection may be used if owners and operators—

A. Demonstrate to the department that an alternate method can detect a release of the stored substance as effectively as any of the methods allowed in 10 CSR 20-10.043(1)(B)—(H) can detect a release of petroleum;

B. Provide information to the department on effective corrective action technologies, health risks and chemical and physical properties of the stored substance and the characteristics of the UST site; and

C. Obtain approval from the department to use the alternate release detection method before the installation and operation of the new UST system.

(2) The provisions of 10 CSR 25-7.265(2)(J) may be used to comply with this rule.

AUTHORITY: sections 319.107, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993.* Original rule filed April 2, 1990, effective Sept. 28, 1990.

*Original authority: 319.107, RSMo 1989 and 644.026, RSMo 1972, amended 1973, 1987, 1993.

10 CSR 20-10.043 Methods of Release Detection for Tanks

PURPOSE: This rule contains the requirements that specific underground storage tank leak detection methods must meet.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the

Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) Each method of release detection for underground storage tanks (UST) used to meet the requirements of petroleum UST leak detection in 10 CSR 20-10.041 must meet the following:

(A) Inventory Control. Product inventory control (or another test of equivalent performance) must be conducted monthly to detect a release of at least one percent (1%) of flow through plus one hundred thirty (130) gallons on a monthly basis in the following manner:

1. Inventory volume measurements for regulated substance inputs, withdrawals and the amount still remaining in the tank are recorded each operating day on forms provided by the department or on forms previously approved by the department;

2. The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth inch (1/8");

3. The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery;

4. Deliveries are made through a drop tube that extends to within one foot (1') of the tank bottom;

5. Product dispensing is metered and recorded within the local standards for meter calibration or an accuracy of six (6) cubic inches for every five (5) gallons of product withdrawn;

6. The measurement of any water level in the bottom of the tank is made to the nearest one-eighth inch (1/8") at least once a month; and

7. The practices described in the American Petroleum Institute Publication 1621, *Recommended Practice for Bulk Liquid Stock Control at Retail Outlets*, may be used, where applicable, as guidance in meeting the requirements of this subsection;

(B) Manual Tank Gauging. Manual tank gauging must meet the following requirements:

1. Tank liquid level measurements are taken at the beginning and ending of a period of at least thirty-six (36) hours during which no liquid is added to or removed from the tank;

2. Level measurements are based on an average of two (2) consecutive stick readings at both the beginning and ending of the period;

3. The equipment used is capable of measuring the level of product over the full

range of the tank's height to the nearest one-eighth inch (1/8");

4. A leak is suspected and subject to the requirements of 10 CSR 20-10.050—10 CSR 20-10.053 if the variation between beginning and ending measurements exceeds the following weekly or monthly standards:

A. Tanks of five hundred fifty (550)-gallon capacity or less are allowed a weekly standard of ten (10) gallons per reading and a monthly average of five (5) gallons per reading;

B. Five hundred fifty-one to one thousand (551—1000)-gallon capacity tanks are allowed a difference of thirteen (13) gallons per week and a monthly average of seven (7) gallons;

C. One thousand one to two thousand (1001—2000)-gallon capacity tanks are allowed a difference of twenty-six (26) gallons per week and a monthly average of thirteen (13) gallons;

D. Five hundred fifty-one to one thousand (551—1000)-gallon capacity tanks with dimensions no greater than sixty-four inches by seventy-three inches (64"×73") are allowed a difference of nine (9) gallons per week and monthly average of four (4) gallons, provided that a period of at least forty-four (44) hours during which no liquid is added to or removed from the tank is allowed to pass between tank liquid level measurements; and

E. One thousand (1000)-gallon capacity tanks with dimensions of forty-eight inches by one hundred twenty-eight inches (48"×128") are allowed a difference of twelve (12) gallons per week and a monthly average of six (6) gallons, provided that a period of at least fifty-eight (58) hours during which no liquid is added to or removed from the tank is allowed to pass between tank liquid level measurements; and

5. Use of manual tank gauging must comply with the following size restrictions:

A. Tanks of five hundred fifty (550) gallons or less nominal capacity may use this as the sole method of release detection;

B. Tanks of five hundred fifty-one to one thousand (551—1000)-gallon capacity with dimensions no greater than sixty-four inches by seventy-three inches (64"×73") and tanks of one thousand (1000)-gallon capacity with dimensions of forty-eight inches by one hundred twenty-eight inches (48"×128") may use this as the sole method of release detection;

C. Tanks of five hundred fifty-one to two thousand (551—2000) gallons may use the method in place of inventory control in 10 CSR 20-10.043(1)(A); and

D. Tanks of greater than two thousand (2000) gallons nominal capacity may not use this method for release detection;

(C) Tank Tightness Testing. Tank tightness testing (or similar test) must be capable of detecting a one-tenth (0.1)-gallon-per-hour leak rate from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation and the location of the water table;

(D) Automatic Tank Gauging. Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control must meet the following requirements:

1. The automatic product level monitor test can detect a two-tenths (0.2)-gallon-per-hour leak rate from any portion of the tank that routinely contains product; and

2. Inventory control (or equivalent test) meeting the requirements in 10 CSR 20-10.043(1)(A) is conducted;

(E) Vapor Monitoring. Testing or monitoring for vapors within the soil gas of the excavation zone must meet the following requirements:

1. The materials used as backfill are sufficiently porous and permeable (for example, gravel, sand or crushed rock) to readily allow diffusion of vapors from releases into the excavation area;

2. The stored regulated substance, or a tracer compound placed in the tank system, is sufficiently volatile (for example, gasoline) to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank;

3. The measurement of vapors by the monitoring device is not rendered inoperative by the groundwater, rainfall or soil moisture or other known interferences so that a release could go undetected for more than thirty (30) days;

4. The level of background contamination in the excavation zone will not interfere with the method used to detect releases from the tank;

5. The vapor monitors are designed and operated to detect any significant increase in concentration above background of the regulated substance stored in the tank system, a component(s) of that substance or a tracer compound placed in the tank system;

6. In the UST excavation zone, the site is assessed to ensure compliance with the requirements in paragraphs (1)(E)1.—4. of this rule and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains product; and

7. Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering;

(F) Groundwater Monitoring. Testing or monitoring for liquids on the groundwater must meet the following requirements:

1. The regulated substance stored is immiscible in water and has a specific gravity of less than one (1);

2. The groundwater is within twenty feet (20') from the ground surface and the hydraulic conductivity of the soil(s) between the UST system and the monitoring wells or devices is at least one hundredth centimeter per second (0.01 cm/sec) (for example, the soil should consist of gravels, coarse to medium sands, coarse silts or other permeable materials);

3. The slotted portion of the monitoring well casing must be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low groundwater conditions;

4. Monitoring wells shall be sealed from the ground surface to the top of the filter pack;

5. Monitoring wells or devices shall intercept the excavation zone or are as close to it as is technically feasible;

6. The continuous monitoring devices or manual methods used can detect the presence of at least one-eighth inch (1/8") of free product on top of the groundwater in the monitoring wells;

7. The site is assessed within and immediately below the UST system excavation zone to ensure compliance with the requirements in paragraphs (1)(F)1.—5. of this rule. The site assessment also establishes the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely contains product; and

8. Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering;

(G) Interstitial Monitoring. Interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it may be used, but only if the system is designed, constructed and installed to detect a leak from any portion of the tank that routinely contains product and also meets one (1) of the following requirements:

1. For double-walled UST systems, the sampling or testing method can detect a release through the inner wall in any portion of the tank that routinely contains product;

2. For UST systems with a secondary barrier within the excavation zone, the sampling or testing method used can detect a

release between the UST system and the secondary barrier.

A. The secondary barrier around or beneath the UST system consists of artificially constructed material that is sufficiently thick and impermeable (less than one millionth centimeter per second (10^{-6} cm/sec) for the regulated substance stored) to direct a release to the monitoring point and permit its detection.

B. The barrier is compatible with the regulated substance stored so that a release from the UST system will not cause a deterioration of the barrier allowing a release to pass through undetected.

C. For cathodically protected tanks the secondary barrier must be installed so that it does not interfere with the proper operation of the cathodic protection system.

D. The groundwater, soil moisture or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than thirty (30) days.

E. The site is assessed to ensure that the secondary barrier is always above the groundwater and not in a twenty-five (25)-year flood plain, unless the barrier and monitoring designs are for use under these conditions.

F. Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering;

3. For tanks with an internally fitted liner, an automated device can detect a release between the inner wall of the tank and the liner is compatible with the substance stored; and

4. The provisions outlined in the Steel Tank Institute's *Standard for Dual Wall Underground Storage Tanks* may be used as guidance for aspects of the design and construction of underground steel double-walled tanks; and

(H) Other Methods. Any other type of release detection method, or combination of methods, can be used if—

1. It can detect a two-tenths (0.2)-gallon-per-hour leak rate or a release of one hundred fifty (150) gallons within a month with a probability of detection of ninety-five percent (95%) and a probability of false alarm of five percent (5%); or

2. The department may approve another method if the owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in subsections (1)(C)—(H) of this rule. In comparing methods, the department shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is

approved, the owner and operator must comply with any conditions imposed by the department on its use to ensure the protection of human health and the environment.

AUTHORITY: sections 319.107, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993.* *Original rule filed April 2, 1990, effective Sept. 28, 1990. Amended: Filed Aug. 3, 1993, effective April 9, 1994.*

*Original authority: 319.107, RSMo 1989 and 644.026, RSMo 1972, amended 1973, 1987, 1993.

10 CSR 20-10.044 Methods of Release Detection for Piping

PURPOSE: This rule describes the requirements of leak detection for the piping on underground storage tanks.

(1) Each method of release detection for piping used to meet the requirements of release detection for underground storage tanks (UST) in 10 CSR 20-10.041 must be conducted in the following manner:

(A) Automatic Line Leak Detectors. Methods which alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if they detect leaks of three (3) gallons per hour at ten (10) pounds per square-inch line pressure within one (1) hour. An annual test of the operation of the leak detector must be conducted in accordance with the manufacturer's requirements;

(B) Line Tightness Testing. A periodic test of piping may be conducted only if it can detect a one-tenth (0.1)-gallon-per-hour leak rate at one and one-half (1.5) times the operating pressure; and

(C) Applicable Tank Methods. Any of the methods in 10 CSR 20-10.043(1)(E)—(H) may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances.

AUTHORITY: sections 319.107, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993.* *Original rule filed April 2, 1990, effective Sept. 28, 1990.*

*Original authority: 319.107, RSMo 1989 and 644.026, RSMo 1972, amended 1973, 1987, 1993.

10 CSR 20-10.045 Release Detection Recordkeeping

PURPOSE: This rule describes the records that must be maintained for monthly release detection activity.

(1) All underground storage tank (UST) system owners and operators must maintain records in 10 CSR 20-10.034 demonstrating compliance with applicable release detection requirements in 10 CSR 20-10.040—10 CSR 20-10.045. These records must include the following:

(A) All written performance claims of any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer, must be maintained for five (5) years or for another reasonable period of time determined by the department from the date of installation;

(B) The results of any sampling, testing or monitoring must be maintained for at least one (1) year, or for another reasonable period of time determined by the department, except that the results of tank tightness testing conducted in accordance with 10 CSR 20-10.043(1)(C) must be retained until the next test is conducted; and

(C) Written documentation of all calibration, maintenance and repair of release detection equipment permanently located on-site must be maintained for at least one (1) year after the servicing work is completed. Any schedules of required calibration and maintenance provided by the release detection equipment manufacturer must be retained for five (5) years from the date of installation.

AUTHORITY: sections 319.107, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993.* *Original rule filed April 2, 1990, effective Sept. 28, 1990.*

*Original authority: 319.107, RSMo 1989 and 644.026, RSMo 1972, amended 1973, 1987, 1993.

10 CSR 20-10.050 Reporting of Suspected Releases

PURPOSE: This rule describes the steps for reporting leaks and spills.

(1) Owners and operators of underground storage tank (UST) systems must report to the department within twenty-four (24) hours and follow the procedures for release investigation and confirmation in 10 CSR 20-10.052 for any of the following conditions:

(A) The discovery by owners and operators or others of released regulated substances at



the UST site or in the surrounding area (such as the presence of free product or vapors in soils, basements, sewer and utility lines and nearby surface water);

(B) Unusual operating conditions observed by owners and operators (such as the erratic behavior of product dispensing equipment, the sudden loss of product from the UST system or an unexplained presence of water in the tank), unless system equipment is found to be defective but not leaking and is immediately repaired or replaced; and

(C) Monitoring results from a release detection method required under 10 CSR 20-10.041 and 10 CSR 20-10.042 that indicate a release may have occurred unless—

1. The monitoring device is found to be defective and is immediately repaired, recalibrated or replaced and additional monitoring does not confirm the initial result; and

2. In the case of inventory control, a second month of data does not confirm the initial result.

AUTHORITY: sections 319.107, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993.* Original rule filed April 2, 1990, effective Sept. 28, 1990.

*Original authority: 319.107, RSMo 1989 and 644.026, RSMo (1972), amended 1973, 1987, 1993.

10 CSR 20-10.051 Investigation Due to Off-Site Impacts

PURPOSE: This rule describes the requirements for off-site investigations following reported or suspected releases.

(1) When required by the department, owners and operators of underground storage tank (UST) systems must follow the steps for confirmation of a release in 10 CSR 20-10.052 to determine if the UST system is the source of the off-site impacts. These impacts include the discovery of regulated substances such as the presence of free product or vapors in soils, basements, sewer and utility lines and nearby surface and drinking waters that have been observed by the department or brought to its attention by another party.

AUTHORITY: sections 319.109, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993.* Original rule filed April 2, 1990, effective Sept. 28, 1990.

*Original authority: 319.109, RSMo 1989 and 644.026, RSMo 1972, amended 1973, 1987, 1993.

10 CSR 20-10.052 Release Investigation and Confirmation Steps

PURPOSE: This rule describes the steps needed to verify a release.

(1) Unless corrective action is initiated in 10 CSR 20-10.060—10 CSR 20-10.067, owners and operators must immediately investigate and confirm all suspected releases of regulated substances requiring reporting under 10 CSR 20-10.050 within seven (7) days or another reasonable time period specified by the department using either the following steps or another procedure approved by the department:

(A) System Test. Owners and operators must conduct tests (tightness testing of tanks in 10 CSR 20-10.043(1)(C) and piping in 10 CSR 20-10.044(1)(B)) to determine whether a leak exists in that portion of the tank that routinely contains product or the attached delivery piping, or both.

1. Owners and operators must repair, replace or upgrade the underground storage tank (UST) system, and begin corrective action in 10 CSR 20-10.060—10 CSR 20-10.067 if the test results for the system, tank or delivery piping indicate that a leak exists.

2. Further investigation is not required if the test results for the system, tank and delivery piping do not indicate that a leak exists and if environmental contamination is not the basis for suspecting a release.

3. Owners and operators must conduct a site check as described in subsection (1)(B) of this rule if the test results for the system, tank and delivery piping do not indicate that a leak exists but environmental contamination is the basis for suspecting a release; or

(B) Site Check. Owners and operators must measure for the presence of a release where contamination is most likely to be present at the UST site. In selecting sample types, sample locations and measurement methods, owners and operators must consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the type of backfill, the depth of groundwater and other factors appropriate for identifying the presence and source of the release.

1. If the site check indicates that a release has occurred, owners and operators must begin corrective action in accordance with 10 CSR 20-10.060—10 CSR 20-10.067; or

2. If the results of the site check do not indicate that a release has occurred, the investigation may stop.

(2) Owners and operators shall follow a written procedure. To comply with this rule, the

department's Site Characterization Guidance Document may be used as a written procedure. Other written procedures may be used with prior written approval of the department.

AUTHORITY: sections 319.109, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993.* Original rule filed April 2, 1990, effective Sept. 28, 1990. Amended: Filed Aug. 3, 1993, effective April 9, 1994.

*Original authority: 319.107, RSMo 1989 and 644.026, RSMo 1972, amended 1973, 1987, 1993.

10 CSR 20-10.053 Reporting and Cleanup of Spills and Overfills

PURPOSE: This rule describes the steps for reporting and cleanup of spills.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) Owners and operators of underground storage tank (UST) systems must contain and immediately cleanup a spill or overfill. The spill or overfill must be reported to the department within twenty-four (24) hours. Owners and operators must begin corrective action in accordance with 10 CSR 20-10.060—10 CSR 20-10.067 in the following cases:

(A) Spill or overfill of petroleum that results in a release to the environment that exceeds twenty-five (25) gallons or that causes a sheen on nearby surface water; and

(B) Spill or overfill of a hazardous substance that results in a release to the environment that equals or exceeds its reportable quantity under Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA) (40 CFR 302).

(2) Owners and operators of UST systems must contain and immediately clean up a spill or overfill of petroleum that is less than twenty-five (25) gallons or another reasonable amount specified by the department and a spill or overfill of a hazardous substance that is less than the reportable quantity. If cleanup cannot be accomplished within twenty-four (24) hours, owners and operators must immediately notify the department.

(3) A release of a hazardous substance equal to or in excess of its reportable quantity must also be reported immediately (rather than within twenty-four (24) hours) to the National Response Center under Sections 102 and 103 of CERCLA (40 CFR 302.6) and to appropriate state and local authorities under Title III of the Superfund Amendments and Reauthorization Act of 1986 (40 CFR 355.40).

AUTHORITY: sections 319.109, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993.* Original rule filed April 2, 1990, effective Sept. 28, 1990.

*Original authority: 319.109, RSMo 1989 and 644.026, RSMo 1972, amended 1973, 1987, 1993.

10 CSR 20-10.060 Release Response and Corrective Action

PURPOSE: This rule establishes general procedures for responding to leaks of spills at underground storage tanks.

(1) Owners and operators of petroleum or hazardous substance underground storage tank (UST) systems must comply, in response to a confirmed release from the UST system, with the requirements of 10 CSR 20-10.060—10 CSR 20-10.067 except for USTs excluded under 10 CSR 20-10.010(2) and UST systems subject to the Resource Conservation and Recovery Act (RCRA), Subtitle C corrective action requirements under Section 3004(u).

AUTHORITY: sections 319.109, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993.* Original rule filed April 2, 1990, effective Sept. 28, 1990.

*Original authority: 319.109, RSMo 1989 and 644.026, RSMo 1972, amended 1973, 1987, 1993.

10 CSR 20-10.061 Initial Release Response

PURPOSE: This rule describes the immediate steps owners and operators of a leaking underground storage tank must take.

(1) Upon confirmation of a release in 10 CSR 20-10.052, or after a release from the underground storage tank (UST) system is identified in any other manner, owners and operators must perform the following initial response actions within twenty-four (24) hours of a release:

(A) Report the release to the department (for example, by telephone or electronic mail);

(B) Take immediate action to prevent any further release of the regulated substance into the environment; and

(C) Identify and mitigate fire, explosion and vapor hazards.

AUTHORITY: sections 319.109, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993.* Original rule filed April 2, 1990, effective Sept. 28, 1990.

*Original authority: 319.109, RSMo 1989 and 644.026, RSMo 1972, amended 1973, 1987, 1993.

10 CSR 20-10.062 Initial Abatement Measures and Site Check

PURPOSE: This rule describes the first steps to stop the spread of the release and finding the extent of the release.

(1) Unless directed to do otherwise by the department, owners and operators must perform the following abatement measures:

(A) Remove as much of the regulated substance from the underground storage tank (UST) system as is necessary to prevent further release to the environment;

(B) Visually inspect any above-ground releases or exposed below-ground releases and prevent further migration of the released substance into surrounding soils and groundwater;

(C) Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the UST excavation zone and entered into subsurface structures such as sewers or basements;

(D) Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement or corrective action activities. If these remedies include treatment or disposal of soils, the owner and operator must comply with applicable state and local requirements;

(E) Measure for the presence of a release where contamination is most likely to be present at the UST site, unless the presence and source of the release have been confirmed in accordance with the site check required by 10 CSR 20-10.052(1)(B) or the closure site assessment of 10 CSR 20-10.072(1). In selecting sample types, sample locations and measurement methods, the owner and operator must consider the nature of the stored substance, the type of backfill, depth to groundwater and other factors as appropriate for identifying the presence and source of the release; and

(F) Investigate to determine the possible presence of free product and begin free product removal as soon as practicable in 10 CSR 20-10.064.

(2) Within twenty (20) days after release confirmation, owners and operators must submit a report to the department summarizing the initial abatement steps taken under section (1) of this rule and any resulting information.

AUTHORITY: sections 319.109, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993.* Original rule filed April 2, 1990, effective Sept. 28, 1990.

*Original authority: 319.109, RSMo 1989 and 644.026, RSMo 1972, amended 1973, 1987, 1993.

10 CSR 20-10.063 Initial Site Characterization

PURPOSE: This rule describes the steps for investigation of a release.

(1) Unless directed to do otherwise by the department, owners and operators must assemble information about the site and the nature of the release, including information gained while confirming the release or completing the initial abatement measures in 10 CSR 20-10.060 and 10 CSR 20-10.061. This information must include, but is not necessarily limited to, the following:

(A) Data on the nature and estimated quantity of release;

(B) Data from available sources or site investigations concerning the following factors: surrounding populations, water quality, use and approximate locations of wells potentially affected by the release, subsurface soil conditions, locations of subsurface sewers, climatological conditions and land use;

(C) Results of the site check required under 10 CSR 20-10.062(1)(E); and

(D) Results of the free product investigations required under 10 CSR 20-10.062(1)(F) to be used by owners and operators to determine whether free product must be recovered under 10 CSR 20-10.064.

(2) Within forty-five (45) days of release confirmation, owners and operators must submit the information collected in compliance with section (1) of this rule to the department or in a format and according to the schedule required by the department.

AUTHORITY: sections 319.109, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993.* Original rule filed April 2, 1990, effective Sept. 28, 1990.

*Original authority: 319.109, RSMo 1989 and 644.026, RSMo 1972, amended 1973, 1987, 1993.

10 CSR 20-10.064 Free-Product Removal

PURPOSE: This rule requires spilled, free product to be collected immediately.

(1) At sites where the investigation reveals free product under 10 CSR 20-10.062(1)(F), owners and operators must remove as much free product as practicable as determined by the department. Any actions initiated under 10 CSR 20-10.061—10 CSR 20-10.063 or preparation for actions required under 10 CSR 20-10.065—10 CSR 20-10.066 must also be continued. In meeting the requirements of this rule, owners and operators must—

(A) Remove free product to minimize the spread of contamination into previously uncontaminated zones. The recovery and disposal techniques must be appropriate to the hydrogeologic conditions at the site. Recovered by-products must be treated, discharged or disposed in compliance with applicable local, state and federal regulations;

(B) Use abatement of free-product migration as a minimum objective for free product removal;

(C) Handle any flammable products in a safe and competent manner to prevent fires or explosions; and

(D) Prepare and submit to the department a free-product removal report, within forty-five (45) days after confirming a release, unless otherwise directed by the department. The report shall provide at least the following information:

1. The name of the person(s) responsible for implementing the free product removal measures;
2. The estimated quantity, type and thickness of free product observed or measured in wells, boreholes and excavations;
3. The type of free-product recovery system used;
4. Whether any discharge will take place on-site or off-site during the recovery operation and the location of this discharge;
5. The type of treatment applied to, and the effluent quality expected from, any discharge;
6. The steps that have been or are being taken to obtain necessary permits for any discharge; and
7. The disposition of the recovered free product.

AUTHORITY: sections 319.109, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993.*

Original rule filed April 2, 1990, effective Sept. 28, 1990.

*Original authority: 319.109, RSMo 1989 and 644.026, RSMo 1972, amended 1973, 1987, 1993.

10 CSR 20-10.065 Investigations for Soil and Groundwater Cleanup

PURPOSE: This rule describes the procedures for soil and groundwater investigations.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) Owners and operators must conduct investigations of the release, the release site and the surrounding area to determine the full extent and location of soils contaminated by the release and the presence and concentrations of dissolved product contamination in the groundwater if any of the following conditions exist:

(A) There is evidence that groundwater wells have been affected by the release (for example, as found during release confirmation or previous corrective action measures);

(B) Free product is found to need recovery in compliance with 10 CSR 20-10.064;

(C) There is evidence that contaminated soils may be in contact with groundwater as found during the initial response measures or investigations required under 10 CSR 20-10.060—10 CSR 20-10.064; or

(D) The department requests an investigation based on the potential effects of contaminated soil or groundwater on nearby surface and ground water resources.

(2) Owners and operators must submit the information collected under section (1) of this rule as soon as practicable or in accordance with a schedule established by the department.

(3) Owners and operators shall follow a written procedure. To comply with this rule, the department's Site Characterization Guidance Document may be used as a written procedure. Other written procedures may be used with prior written approval of the department.

AUTHORITY: sections 319.109, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993.*
Original rule filed April 2, 1990, effective Sept. 28, 1990. Amended: Filed Aug. 3, 1993, effective April 9, 1994.

*Original authority: 319.107, RSMo 1989 and 644.026, RSMo 1972, amended 1973, 1987, 1993.

10 CSR 20-10.066 Corrective Action Plan

PURPOSE: This rule lists the requirements for corrective action plans for cleanup of releases from underground storage tank sites.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) Owners and operators are responsible for submitting a plan that provides for adequate protection of human health and the environment, as determined by the department, after fulfilling the requirements for release reporting and investigation in 10 CSR 20-10.061—10 CSR 20-10.063. Owners and operators must modify their plan as necessary to meet this standard.

(A) The department may require owners and operators to submit additional information or to develop and submit a corrective action plan for responding to contaminated soils and groundwater at any point after reviewing the information submitted for release reporting and investigation in 10 CSR 20-10.061—10 CSR 20-10.063. If a plan is required, owners and operators must submit the plan according to a schedule and format established by the department.

(B) Owners and operators may choose to submit a corrective action plan for responding to contaminated soil and groundwater after fulfilling the requirements of 10 CSR 20-10.061—10 CSR 20-10.063.

(2) The department will approve the corrective action plan only after ensuring that implementation of the plan will adequately protect human health, safety and the environment. In making this determination the department should consider the following factors as appropriate:

(A) The physical and chemical characteristics of the regulated substance, including its



toxicity, persistence and potential for migration;

(B) The hydrogeologic characteristics of the facility and the surrounding area;

(C) The proximity, quality and current and future uses of nearby surface and ground water;

(D) The potential effects of residual contamination on nearby surface and ground water;

(E) An exposure assessment; and

(F) Any information assembled in 10 CSR 20-10.060—10 CSR 20-10.067.

(3) Upon approval of the corrective action plan, or as directed by the department, owners and operators must implement the plan including modifications to the plan made by the department. Owners and operators must monitor, evaluate and report the results of implementing the plan in accordance with a schedule and in a format established by the department.

(4) Owners and operators, in the interest of minimizing environmental contamination and promoting more effective clean-up, may begin clean-up of soil and groundwater before the corrective action plan is approved provided that they—

(A) Notify the department of their intention to begin clean-up;

(B) Comply with any conditions imposed by the department, including halting clean-up or mitigating adverse consequences from clean-up activities; and

(C) Incorporate these self-initiated clean-up measures in the corrective action plan that is submitted to the department for approval.

(5) Owners and operators shall follow a written procedure. To comply with this rule, the department's Corrective Action Guidance Document may be used as a written procedure. Other written procedures may be used with prior written approval of the department.

AUTHORITY: sections 319.109, Supp. 1989 and 644.026, RSMo Supp. 1993.* Original rule filed April 2, 1990, effective Sept. 28, 1990. Amended: Filed Aug. 3, 1993, effective April 9, 1994.

*Original authority: 319.109, RSMo 1989 and 644.026, RSMo 1972, amended 1973, 1987, 1993.

10 CSR 20-10.067 Public Participation

PURPOSE: This rule establishes procedures for public participation during corrective action plans.

(1) For each confirmed release that requires a corrective action plan, the department must provide notice to the public by means designed to reach those members of the public directly affected by the release and the planned corrective action. This notice may include, but is not limited to, public notice in local newspapers, block advertisements, public service announcements, publication in a state register, letters to individual households or personal contacts by field staff.

(2) Site release information and decisions by the department concerning the corrective action plan are available to the public for inspection upon request.

(3) Before approving any corrective action plan, the department may hold a public meeting to consider comments on the proposed corrective action plan if there is sufficient public interest or for any other reason.

(4) The department must give public notice in section (1) of this rule if implementation of an approved corrective action plan does not achieve the established clean-up levels in the plan and termination of that plan is under consideration by the department.

AUTHORITY: sections 319.109, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993.* Original rule filed April 2, 1990, effective Sept. 28, 1990.

*Original authority: 319.109, RSMo 1989 and 644.026, RSMo 1972, amended 1973, 1987, 1993.

10 CSR 20-10.068 Risk-Based Clean-Up Levels

PURPOSE: This rule sets clean-up levels for underground storage tank corrective actions and for site assessment, site characterization, and workplan development, which are all stages in developing clean-up levels. The rule also sets deed notice language to assure that the site is not used in a manner which would pose unacceptable risk or exposure. The rule requires that sites be ranked and that the ranking be used to allocate staff and funds.

PUBLISHER'S NOTE: The publication of the full text of the material that the adopting agency has incorporated by reference in this rule would be unduly cumbersome or expensive. Therefore, the full text of that material will be made available to any interested person at both the Office of the Secretary of State and the office of the adopting agency, pursuant to section 536.031.4, RSMo. Such

material will be provided at the cost established by state law.

(1) Applicability. This rule applies to all cleanups of petroleum releases from underground storage tanks (USTs).

(2) Upon being so directed by the department, the UST remediator shall conduct a preliminary assessment of the site.

(A) The requirement for a preliminary assessment is waived if permanent closure is being conducted, or significant contamination is known to exist at the site, and the department has been notified of a release as required in 10 CSR 24-3.010(1).

(B) The preliminary assessment shall be conducted according to department guidance.

(3) The department will evaluate the results of the preliminary assessment to rank the site relative to other sites for further characterization and/or corrective action.

(A) If the preliminary assessment shows contamination levels below the action levels outlined in the department's underground storage tank closure guidance document, the department will require no further action at the site.

(B) If, in accordance with subsection (3)(A) of this rule, the department determines that no further action is required at a site, and if subsequent information becomes available to indicate that contamination may be present at the site at levels which may threaten human health or the environment, the department may require additional investigation or site characterization and/or corrective action.

(4) If full site characterization is required by the department, due to known contamination or in accordance with subsection (3)(B) of this rule, the UST remediator shall conduct the site characterization according to department guidance.

(5) The department will review the site characterization and rank the site relative to other sites based on site conditions as reflected in the site characterization and the potential risk to human health and/or the environment.

(A) The rank assigned to the site will be used to prioritize department actions including, but not limited to review of documents, pre-approval of costs and reimbursement of costs, in regard to the site.

(B) The department will not require further action at sites that the department deems not to pose a risk to human health and/or the environment, unless there is a change in known conditions at the site that would upgrade its priority, as determined by the department.

(6) Except as provided in section (8) of this rule, site clean-up objectives will be set as follows:

(A) Site clean-up objectives for the cleanup of petroleum released from underground storage tanks will be set by using the scoring matrix and the groundwater clean-up standards as outlined in the department's underground storage tank closure guidance document.

(B) *(Reserved)* (Note: The soil scoring matrix is a site-specific risk-based method which accounts for future land use and other considerations. Upon further development and review, this method or another which also meets statutory requirements, will be set forth in this section.)

(7) Site clean-up objectives and workplans are subject to approval by the department. Such approval must be granted in writing prior to implementation of the workplan.

(8) For all sites which are cleaned up to meet levels less stringent than (higher than) those set according to section (6) of this rule, the UST remediator shall file a document in the chain of title of the property. The document shall state that the contaminant levels were deemed acceptable by the department, based on the land use and other considerations, at the time of cleanup.

(A) If the UST remediator is a person other than the landowner, the UST remediator shall provide a copy of the document which is to be filed in the chain of title for the property, by certified mail to the landowner.

(B) The language of the document to be filed in the chain of title shall include the following:

**NOTICE OF ACCEPTABLE LAND
USE(S) OF UNDERGROUND STORAGE
TANK SITE**

Owner of Record: *(Landowner's Name)*

Site Description: *(Site Name And Legal Description)*

The above-described real property, owned by *(Landowner's Name)* and located in the County of *(County Name)* and State of Missouri, is the site of an underground storage tank which was *(Removed/Closed)* on *(Date)*. The site cleanup was accepted as complete by the Missouri Department of Natural Resources on *(Date)*, in accordance with the applicable requirements of Title 10, Division 25, Chapters 10 through 12 of the *Code of State Regulations* which were in effect at the time of cleanup. The contaminant levels remaining on the site are suitable

for *(Commercial/Light Industrial/Heavy Industrial/ Other Specified)* use.

In witness whereof I hereunto set my hand this ____ day of ____, 19 ____.

(Office)

(Name)

(Title)

(C) No person may substantially change the manner in which a site with a document filed in the chain of title under this section is used without the prior written approval of the director or the director's designee.

1. Requests for approval of change in use of real property must be submitted in writing to the director's office no less than sixty (60) days prior to the planned change in use of real property. In the event the director does not respond within sixty (60) days after the request is received, the request will be considered to be approved as submitted.

2. The director will evaluate the request to determine whether the change in use of real property is likely to result in increased exposure of persons or the environment or spread of contamination.

3. If the change in use of real property is not likely to result in increased exposure of persons or the environment or spread of contamination, the director shall provide written approval.

(D) When the director finds that a site which has had a document filed in the chain of title under this section has been further cleaned up to meet or exceed (lower levels than) the standards described in section (6) of this rule, the director shall direct the UST remediator to file a second document in the chain of title. The document shall include the language in subsection (8)(B) of this rule, and shall describe the land uses for which the new contaminant levels are suitable.

AUTHORITY: sections 319.111, RSMo 1994 and 319.109 and 319.137, RSMo Supp. 1996.* Original rule filed Jan. 2, 1996, effective Aug. 30, 1996. Amended: Filed Jan. 14, 1997, effective Sept. 30, 1997.

*Original authority: 319.109, RSMo 1989, amended 1995; 319.111, RSMo 1984; and 319.127, RSMo 1989, amended 1992, 1993.

10 CSR 20-10.070 Temporary Closure

PURPOSE: This rule contains the procedures for placing underground storage tanks out of service or temporarily closing underground storage tanks.

(1) When an underground storage tank (UST) system is temporarily closed, owners and operators must continue operation and maintenance of corrosion protection in 10 CSR 20-10.031 and release detection in 10 CSR 20-10.040—10 CSR 20-10.045. Release reporting, investigation and corrective action in 10 CSR 20-10.050—10 CSR 20-10.067 must be performed if a release is suspected or confirmed. If the UST system is empty, release detection is not required. The UST system is empty when all materials have been removed so that no more than one inch (1") (or two and one-half (2.5) centimeters) of residue or three-tenths percent (0.3%) by weight of the total capacity of the UST system remains.

(2) Owners and operators must also comply with the following requirements when a UST system is temporarily closed for three (3) months or more:

(A) Leave vent lines open and functioning; and

(B) Cap and secure all other lines, pumps, manways and ancillary equipment.

(3) When a UST system is temporarily closed for more than twelve (12) months, owners and operators must permanently close the UST system if it does not meet either performance standards in 10 CSR 20-10.020 for new UST systems or the upgrading requirements in 10 CSR 20-10.021 except that the spill and overfill equipment requirements do not have to be met. Owners and operators must permanently close the substandard UST systems at the end of this twelve (12)-month period in accordance with 10 CSR 20-10.071—10 CSR 20-10.074, unless the department provides an extension of the twelve (12)-month temporary closure period. Owners and operators must complete a site assessment in accordance with 10 CSR 20-10.072 before such an extension can be applied for.

AUTHORITY: sections 319.111, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993.* Original rule filed April 2, 1990, effective Sept. 28, 1990.

*Original authority: 319.111, RSMo 1989 and 644.026, RSMo (1972), amended 1973, 1987, 1993.



10 CSR 20-10.071 Permanent Closure and Changes in Service

PURPOSE: This rule contains the requirements for permanent closure of underground storage tanks as well as for converting underground storage tanks to an unregulated use.

(1) Owners and operators must notify the department in writing, on forms provided by the department, at least thirty (30) days before beginning either permanent closure or a change in service of an underground storage tank (UST) in sections (2) and (3) of this rule or within another reasonable time period determined by the department, unless this action is in response to corrective action. The required assessment of the excavation zone under 10 CSR 20-10.072 must be performed after notifying the department but before completion of the permanent closure or a change in service.

(2) To permanently close a tank, owners and operators must empty and clean it by removing all liquids and accumulated sludges. Liquids and sludges shall be managed in accordance with state and federal regulations. All tanks taken out of service permanently must also be either removed from the ground or filled with an inert solid material.

(3) Continued use of a UST system to store a nonregulated substance is a change in service. Before a change in service, owners and operators must empty and clean the tank by removing all liquid and accumulated sludge and conduct a site assessment in 10 CSR 20-10.072.

(4) Owners and operators shall follow a written procedure. To comply with this rule, the department's UST Closure Guidance Document may be used as a written procedure. It may be supplemented with the following cleaning and closure procedures:

(A) American Petroleum Institute Recommended Practice 1604, *Removal and Disposal of Used Underground Petroleum Storage Tanks*;

(B) American Petroleum Institute Publication 2015, *Cleaning Petroleum Storage Tanks*;

(C) American Petroleum Institute Recommended Practice 1631, *Interior Lining of Underground Storage Tanks*; and

(D) Owners and operators may use other written procedures with prior written approval of the department.

AUTHORITY: sections 319.III, RSMo Supp. 1994 and 644.026, RSMo Supp. 1998.* Original rule filed April 2, 1990, effective

Sept. 28, 1990. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Amended: Filed April 1, 1999, effective March 30, 2000.

*Original authority: 319.III, RSMo 1989 and 644.026, RSMo 1972, amended 1973, 1987, 1993, 1995.

10 CSR 20-10.072 Assessing the Site at Closure or Change in Service

PURPOSE: This rule describes the requirements of a site assessment, that is determining whether there has been a release from the underground storage tank system.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) Before permanent closure or a change in service is completed, owners and operators must measure for the presence of a release where contamination is most likely to be present at the underground storage tank (UST) site. In selecting sample types, sample locations and measurement methods, owners and operators must consider the method of closure, the nature of the stored substance, the type of backfill, the depth to groundwater and other factors appropriate for identifying the presence of a release. The requirements of this section are satisfied if vapor monitoring or groundwater monitoring in 10 CSR 20-10.043(E) and (F) is operating at the time of closure and indicates no release has occurred.

(2) If contaminated soils, contaminated groundwater or free product as a liquid or vapor is discovered under section (1) of this rule, or by any other manner, owners and operators must begin corrective action in 10 CSR 20-10.060—10 CSR 20-10.067.

(3) Owners and operators shall follow a written procedure. To comply with this rule, the department's UST Closure Guidance Document may be used as a written procedure. Other written procedures may be used with prior written approval of the department.

AUTHORITY: sections 319.III, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993.* Original rule filed April 2, 1990, effective

Sept. 28, 1990. Amended: Filed Aug. 3, 1993, effective April 9, 1994.

*Original authority: 319.107, RSMo 1989 and 644.026, RSMo 1972, amended 1973, 1987, 1993.

10 CSR 20-10.073 Applicability to Previously Closed Underground Storage Tank Systems

PURPOSE: This rule describes the responsibilities of owners and operators of underground storage tanks closed before December 22, 1988.

(1) The department may require that the owner and operator of an underground storage tank (UST) system permanently closed before December 22, 1988, must assess the excavation zone and close the UST system in accordance with 10 CSR 20-10.070—10 CSR 20-10.074 if releases from the UST, in the judgment of the department, may pose a current or potential threat to human health and the environment.

AUTHORITY: sections 319.III, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993.* Original rule filed April 2, 1990, effective Sept. 28, 1990.

*Original authority: 319.III, RSMo 1989 and 644.026, RSMo 1972, amended 1973, 1987, 1993.

10 CSR 20-10.074 Closure Records

PURPOSE: This rule requires the owner and the operator to keep records documenting the closure and site assessment of underground storage tank systems.

(1) Owners and operators must maintain records in accordance with 10 CSR 20-10.034 that are capable of demonstrating compliance with closure requirements in 10 CSR 20-10.070—10 CSR 20-10.074. The results of the site assessment in 10 CSR 20-10.072 must be maintained for at least three (3) years after completion of permanent closure or change in service in one (1) of the following ways:

(A) By the owners and operators who took the underground storage tank (UST) system out of service;

(B) By the current owners and operators of the UST system site; or

(C) By mailing these records to the department if they cannot be maintained at the closed facility.

AUTHORITY: sections 319.III, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993.*

*Original rule filed April 2, 1990, effective
Sept. 28, 1990.*

**Original authority: 319.111, RSMo 1989 and 644.026,
RSMo 1972, amended 1973, 1987, 1993.*

Rules of

Department of Natural Resources

Division 20—Clean Water Commission

Chapter 11—Underground Storage Tanks—

Financial Responsibility

Title	Page
10 CSR 20-11.090 Applicability	3
10 CSR 20-11.091 Compliance Dates	3
10 CSR 20-11.092 Definitions of Financial Responsibility Terms	3
10 CSR 20-11.093 Amount and Scope of Required Financial Responsibility	3
10 CSR 20-11.094 Allowable Mechanisms and Combinations of Mechanisms	4
10 CSR 20-11.095 Financial Test or Self-Insurance	4
10 CSR 20-11.096 Guarantee	5
10 CSR 20-11.097 Insurance and Risk Retention Group Coverage	6
10 CSR 20-11.098 Surety Bond	6
10 CSR 20-11.099 Letter of Credit	6
10 CSR 20-11.101 Petroleum Storage Tank Insurance Fund	7
10 CSR 20-11.102 Trust Fund	7
10 CSR 20-11.103 Standby Trust Fund	7
10 CSR 20-11.104 Substitution of Financial Assurance Mechanisms by Owner or Operator	7
10 CSR 20-11.105 Cancellation or Nonrenewal by a Provider of Financial Assurance	7
10 CSR 20-11.106 Reporting by Owner or Operator	8
10 CSR 20-11.107 Recordkeeping	8
10 CSR 20-11.108 Drawing on Financial Assurance Mechanisms	9
10 CSR 20-11.109 Release From the Requirements	9

10 CSR 20-11.110	Bankruptcy or Other Incapacity of Owner or Operator, or Provider of Financial Assurance.....	10
10 CSR 20-11.111	Replenishment of Guarantees, Letters of Credit or Surety Bonds	10
10 CSR 20-11.112	Local Government Bond Rating Test	10
10 CSR 20-11.113	Local Government Financial Test	11
10 CSR 20-11.114	Local Government Guarantee	12
10 CSR 20-11.115	Local Government Fund	12

Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 20—Clean Water Commission Chapter 11—Underground Storage Tanks—Financial Responsibility

10 CSR 20-11.090 Applicability

PURPOSE: *This rule identifies those persons required to obtain financial responsibility for releases of products from petroleum underground storage tanks.*

(1) Rules 10 CSR 20-11.090—10 CSR 20-11.115 apply to owners and operators of all petroleum underground storage tank (UST) systems except as otherwise provided in this rule.

(2) Owners and operators of petroleum UST systems are subject to these requirements if they are in operation on or after the date for compliance established in 10 CSR 20-11.091.

(3) State and federal government entities whose debts and liabilities are the debts and liabilities of a state or the United States are exempt from the requirements of 10 CSR 20-11.090—10 CSR 20-11.115.

(4) The requirements of 10 CSR 20-11.090—10 CSR 20-11.115 do not apply to owners and operators of any deferred or excluded UST system described in 10 CSR 20-10.010(2) or (3).

(5) If the owner and operator of a petroleum UST are separate persons, only one (1) person is required to demonstrate financial responsibility; however, both parties are liable in the event of noncompliance. Regardless of which party complies, the date set for compliance at a particular facility is determined by the characteristics of the owner as set forth in 10 CSR 20-11.091.

AUTHORITY: *sections 319.114, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993. * Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994.*

**Original authority: 319.114, RSMo 1989 and 644.026, RSMo 1972, amended 1973, 1987, 1993.*

10 CSR 20-11.091 Compliance Dates

PURPOSE: *This rule establishes the deadlines for obtaining financial responsibility.*

(1) Owners of petroleum underground storage tanks (USTs) shall comply with the require-

ments of 10 CSR 20-11.090—10 CSR 20-11.115 by the following dates:

(A) August 30, 1991 for all petroleum marketing firms owning one hundred (100) or more USTs and all other UST owners that report a tangible net worth of twenty (20) million dollars or more to the United States Securities and Exchange Commission (SEC), Dunn and Bradstreet, the Energy Information Administration or the Rural Electrification Administration;

(B) December 31, 1993 for all petroleum UST owners not described in subsection (1)(A) of this rule, excluding all local government entities; and

(C) February 18, 1994 for all local government entities.

AUTHORITY: *sections 319.114, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993. * Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994.*

**Original authority: 319.114, RSMo 1989 and 644.026, RSMo 1972, amended 1973, 1987, 1993.*

10 CSR 20-11.092 Definitions of Financial Responsibility Terms

PURPOSE: *This rule defines specific terms used in this chapter.*

PUBLISHER'S NOTE: *The publication of the full text of the material that the adopting agency has incorporated by reference in this rule would be unduly cumbersome or expensive. Therefore, the full text of that material will be made available to any interested person at both the Office of the Secretary of State and the office of the adopting agency, pursuant to section 536.031.4, RSMo. Such material will be provided at the cost established by state law.*

(1) The definitions set forth in 40 CFR 280.92, July 1, 1998, are incorporated by reference, subject to the following additions, modifications, substitutions or deletions.

(A) The definitions set forth in this rule apply to terms when used in 10 CSR 20-11.090 through 10 CSR 20-11.115. In addition, the definitions in 10 CSR 20-10.012 apply to the terms used in this chapter unless defined otherwise in this rule or in the rule in which the term is used. Modifications and additions to specific definitions are—

1. The definition for "Director of the Implementing Agency" in 40 CFR 280.92, is not incorporated in this rule;

2. At the end of the definition of "Financial Reporting Year" in 40 CFR 280.92, as

incorporated in this rule, add the following sentence: Financial reporting year may comprise a fiscal or calendar year period;

3. In the definition of "provider of financial assurance" in 40 CFR 280.92, as incorporated into this rule, substitute "10 CSR 20-11.095 through 10 CSR 20-11.103" for "section 280.95–280.103," delete "issuer of a state-required mechanism" and substitute "the Petroleum Storage Tank Insurance Fund" for "a state"; and

4. In the definition of "termination in 40 CFR 280.92 as incorporated into this rule, substitute "in 10 CSR 20-11.097(2)" for "under section 260.97(b)(1)."

(2) Missouri Specific Definitions. This section sets forth definitions which add to those in 40 CFR 280.92, as incorporated in this rule.

(A) "Director" shall mean the director of the Department of Natural Resources. For purposes of compliance, financial responsibility instruments submitted to the department may also name the directors of other state UST programs as well as regional administrators of the Environmental Protection Agency (EPA).

(B) "EPA" means the United States Environmental Protection Agency.

(C) "Implementing agency" means the Department of Natural Resources.

AUTHORITY: *sections 319.114, RSMo 1994 and 319.129 and 644.026, RSMo Supp. 1998. * Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Amended: Filed Jan. 14, 1997, effective Sept. 30, 1997. Amended: Filed April 1, 1999, effective March 30, 2000.*

**Original authority: 319.114, RSMo 1989; 319.129, RSMo 1989, amended 1991, 1996, 1998; and 644.026, RSMo 1972, amended 1973, 1987, 1993, 1995.*

10 CSR 20-11.093 Amount and Scope of Required Financial Responsibility

PURPOSE: *This rule establishes the amount of the required financial responsibility.*

(1) Owners or operators of petroleum underground storage tanks (USTs) shall demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs in at least the following per occurrence amounts:

(A) One (1) million dollars for owners or operators of petroleum USTs that are located at petroleum marketing facilities or that handle an average of more than ten thousand

(10,000) gallons of petroleum per month based on annual throughput for the previous calendar year; or

(B) Five hundred thousand dollars (\$500,000) for all other owners or operators of petroleum USTs.

(2) Owners or operators of petroleum USTs must demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs in at least the following annual aggregate amounts:

(A) One (1) million dollars for owners or operators of one to one hundred (1-100) petroleum USTs; and

(B) Two (2) million dollars for owners or operators of one hundred one (101) or more petroleum USTs.

(3) For the purposes of sections (2) and (6) of this rule, a petroleum UST means a single containment unit and does not mean combinations of single containment units.

(4) Except as provided in section (5) of this rule, the amount of assurance provided by each mechanism or combination of mechanisms must be in the full amount specified in sections (1) and (2) of this rule if the owner or operator uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for—

(A) Taking corrective action;

(B) Compensating third parties for bodily injury and property damage caused by sudden accidental releases; or

(C) Compensating third parties for bodily injury and property damage caused by non-sudden accidental releases.

(5) If an owner or operator uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for different petroleum USTs, the annual aggregate required shall be based on the number of tanks covered by each separate mechanism or combination of mechanisms.

(6) Owners or operators shall review the amount of aggregate assurance provided whenever additional petroleum USTs are acquired or installed and shall revise their financial responsibility to comply with the following:

(A) If the number of petroleum USTs for which assurance must be provided exceeds one hundred (100), the owner or operator shall demonstrate financial responsibility in the amount of at least two (2) million dollars of annual aggregate assurance by the anniversary of the date on which the mechanism

demonstrating financial responsibility became effective; and

(B) If assurance is being demonstrated by a combination of mechanisms to meet the requirements of section (6), the owner or operator shall demonstrate financial responsibility in the amount of at least two (2) million dollars of annual aggregate assurance by the first occurring effective date anniversary of any one (1) of the mechanisms combined (other than a financial test or guarantee) to provide assurance.

(7) The amounts of assurance required under this rule exclude legal defense costs.

(8) The required per occurrence and annual aggregate coverage amounts do not in any way limit the liability of the owner or operator.

AUTHORITY: sections 319.114, RSMo Supp. 1989 and 644.026, RSMo Supp. 1993. * Original rule filed Feb. 7, 1991, effective Aug. 30, 1991.

*Original authority: 319.114, RSMo 1989 and 644.026, RSMo 1972, amended 1973, 1987, 1993.

10 CSR 20-11.094 Allowable Mechanisms and Combinations of Mechanisms

PURPOSE: This rule outlines the methods allowed for demonstrating financial responsibility for releases from petroleum underground storage tanks.

(1) Subject to the limitations of sections (2) and (3) of this rule—

(A) An owner or operator, including a local government owner or operator, may use any one (1) or combination of the mechanisms listed in 10 CSR 20-11.095 through 10 CSR 20-11.103 to demonstrate financial responsibility under 10 CSR 20-11.090 through 10 CSR 20-11.115 for one (1) or more underground storage tanks (USTs); provided, that the total scope and amounts assured meet the requirements of 10 CSR 20-11.093; and

(B) A local government owner or operator may use any one (1) or combination of the mechanisms listed in 10 CSR 20-11.112 through 10 CSR 20-11.115 to demonstrate financial responsibility under 10 CSR 20-11.090 through 10 CSR 20-11.115 for one (1) or more USTs; provided, that the total scope and amounts assured meet the requirements of 10 CSR 20-11.093.

(2) An owner or operator may use self-insurance to meet any deductible or co-pay portions of either insurance or risk retention

group coverage under 10 CSR 20-11.097 or Petroleum Storage Tank Insurance Fund under 10 CSR 20-11.101; provided, that—

(A) The deductible and co-pay amounts do not exceed fifty thousand dollars (\$50,000);

(B) The owner or operator shall have a letter signed by the chief financial officer worded as specified in 10 CSR 20-11.095(4); and

(C) The answer(s) to 10 CSR 20-11 Appendix Form 1 (see 10 CSR 20-11.115), Alternative I, line 8, or Alternative II, lines 9 and 15 is (are): yes—except that a current rating of the most recent bond issue by Standard and Poor's of AAA, AA, A or BBB or Moody's of Aaa, Aa, A or Ba may be substituted for the line 15 response.

(3) An owner or operator may use self-insurance in combination with a guarantee only if, for the purpose of meeting the requirements of the financial test under this rule, the financial statements of the owner or operator are not consolidated with the financial statements of the guarantor.

AUTHORITY: sections 319.114, RSMo 1994 and 319.129 and 644.026, RSMo Supp. 1996. * Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Amended: Filed Jan. 14, 1997, effective Sept. 30, 1997.

*Original authority: 319.114, RSMo 1989; 319.129, RSMo 1989, amended 1991, 1996; and 644.026, RSMo 1972, amended 1973, 1987, 1993.

10 CSR 20-11.095 Financial Test of Self-Insurance

PURPOSE: This rule describes the requirements a person must meet for self-insurance.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) An owner or operator, or guarantor may satisfy the requirements of 10 CSR 20-11.093 by passing a financial test as specified in this rule. To pass the financial test of self-insurance, the owner or operator, or guarantor shall meet the criteria of section (2) or (3) of this rule based on year-end financial statements for the latest completed fiscal year.

(2) The owner or operator, or guarantor shall have a tangible net worth that meets the following requirements:

(A) The owner or operator, or guarantor shall have a tangible net worth of at least ten (10) times—

1. The total of the applicable aggregate amount required by 10 CSR 20-11.093 based on the number of underground storage tanks (USTs) for which a financial test is used to demonstrate financial responsibility to the department;

2. The sum of the corrective action cost estimates, the current closure and post-closure care cost estimates and amount of liability coverage for which a financial test is used to demonstrate financial responsibility to Environmental Protection Agency (EPA) in 40 CFR parts 264.101, 264.143, 264.145, 264.147, 265.143, 265.145 and 265.147 or under any state program authorized by EPA under 40 CFR part 271; or

3. The sum of current plugging and abandonment cost estimates for which a financial test is used to demonstrate financial responsibility to EPA under 40 CFR part 144.63 or under any program authorized by EPA under 40 CFR part 145;

(B) The owner or operator, or guarantor shall have a tangible net worth of at least ten (10) million dollars;

(C) The owner or operator, or guarantor shall have a letter signed by the chief financial officer worded as specified in section (4) of this rule;

(D) The owner or operator, or guarantor either must—

1. File financial statements annually with the United States Securities and Exchange Commission (SEC), the Energy Information Administration (EIA) or the Rural Electrification Administration (REA); or

2. Report annually the firm's tangible net worth to Dunn and Bradstreet and Dunn and Bradstreet shall have assigned the firm a financial strength rating of 4A or 5A; and

(E) The firm's year-end financial statements, if independently audited, cannot include an adverse auditor's opinion, a disclaimer of opinion or a going concern qualification.

(3) The owner or operator, or guarantor shall meet the financial test requirements of 40 CFR 264.147(f)(1), modified as follows:

(A) The owner or operator, or guarantor must meet the financial test requirements of 40 CFR 264.147(f)(1), substituting the appropriate amounts specified in 10 CSR 20-11.093(2)(A) and (B) for the amount of lia-

bility coverage each time specified in that section;

(B) The fiscal year-end financial statements of the owner or operator, or guarantor must be examined by an independent certified public accountant and be accompanied by the accountant's report of the examination;

(C) The firm's year-end financial statements cannot include an adverse auditor's opinion, a disclaimer of opinion or a going concern qualification;

(D) The owner or operator, or guarantor shall have a letter signed by the chief financial officer worded as specified in section (4); and

(E) If the financial statements of the owner or operator, or guarantor are not submitted annually to the United States SEC, the EIA or the REA, the owner or operator, or guarantor shall obtain a special report by an independent certified public accountant stating that—

1. S/he has compared the data that the letter from the chief financial officer specifies as having been derived from the latest year-end financial statements of the owner or operator, or guarantor with the amounts in those financial statements; and

2. In connection with that comparison, no matters came to his/her attention which caused him/her to believe that the specified data should be adjusted.

(4) To demonstrate that it meets the financial test under section (2) or (3), the chief financial officer of the owner or operator, or guarantor shall sign within one hundred twenty (120) days of the close of each financial reporting year, as defined by the twelve (12)-month period for which financial statements used to support the financial test are prepared, a letter worded exactly as listed in 10 CSR 20-11 Appendix, Form 1 (see 10 CSR 20-11.115).

(5) If an owner or operator using the test to provide financial assurance finds that s/he no longer meets the requirements of the financial test based on the year-end financial statements, the owner or operator shall obtain alternative coverage within one hundred fifty (150) days of the end of the year for which financial statements have been prepared.

(6) The director may require reports of financial condition at any time from the owner or operator, or guarantor. If the director finds, on the basis of these reports or other information, that the owner or operator, or guarantor no longer meets the financial test requirements of 10 CSR 20-11.095(2) or (3) and (4), the owner or operator shall obtain

alternate coverage within thirty (30) days after notification of that finding.

(7) If the owner or operator fails to obtain alternate assurance within one hundred fifty (150) days of finding that s/he no longer meets the requirements of the financial test based on the year-end financial statements, or within thirty (30) days of notification by the director that s/he no longer meets the requirements of the financial test, the owner or operator shall notify the director of that failure within ten (10) days.

AUTHORITY: sections 319.114, RSMo (Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993). * Original rule filed Feb. 7, 1991, effective Aug. 30, 1991.

*Original authority: 319.114, RSMo (1989) and 644.026, RSMo (1972), amended 1973, 1987, 1993.

10 CSR 20-11.096 Guarantee

PURPOSE: This rule describes the requirements for a guarantee of financial responsibility.

(1) An owner or operator may satisfy the requirements of 10 CSR 20-11.093 by obtaining a guarantee that conforms to the requirements of this section. The guarantor shall be—

(A) A firm that—

1. Possesses a controlling interest in the owner or operator;

2. Possesses a controlling interest in a firm described under paragraph(1)(A)1. of this rule; or

3. Is controlled through stock ownership by a common parent firm that possesses a controlling interest in the owner or operator; or

(B) A firm engaged in a substantial business relationship with the owner or operator and issuing the guarantee as an act incident to that business relationship.

(2) Within one hundred twenty (120) days of the close of each financial reporting year, the guarantor shall demonstrate that it meets the financial test criteria of 10 CSR 20-11.095 based on year-end financial statements for the latest completed financial reporting year by completing the letter from the chief financial officer described in 10 CSR 20-11.095(4) and shall deliver the letter to the owner or operator. If the guarantor fails to meet the requirements of the financial test at the end of any financial reporting year, within one hundred twenty (120) days of the end of that financial reporting year the guarantor shall send by certified mail, before cancellation or

nonrenewal of the guarantee, notice to the owner or operator. If the director notifies the guarantor that s/he no longer meets the requirements of the financial test of 10 CSR 20-11.095(2) or (3) and (4), the guarantor must notify the owner or operator within ten (10) days of receiving that notification from the director. In both cases, the guarantee will terminate no less than one hundred twenty (120) days after the date the owner or operator receives the notification as evidenced by the return receipt. The owner or operator shall obtain alternate coverage as specified in 10 CSR 20-11.110(5).

(3) The guarantee shall be worded as specified in 10 CSR 20-11 Appendix, Form 2 (see 10 CSR 20-11.115).

(4) An owner or operator who uses a guarantee to satisfy the requirements of 10 CSR 20-11.093 shall establish a standby trust fund when the guarantee is obtained. Under the terms of the guarantee, all amounts paid by the guarantor under the guarantee will be deposited directly into the standby trust fund in accordance with instructions from the director under 10 CSR 20-11.108. This standby trust fund shall meet the requirements specified in 10 CSR 20-11.103.

AUTHORITY: sections 319.114, RSMo (Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993). * Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994.

*Original authority: 319.114, RSMo (1989) and 644.026, RSMo (1972), amended 1973, 1987, 1993.

10 CSR 20-11.097 Insurance and Risk Retention Group Coverage

PURPOSE: This rule describes the requirements for use of insurance or risk retention group coverage for financial responsibility.

(1) An owner or operator may satisfy financial responsibility requirements in 10 CSR 20-11.093 by obtaining liability insurance that conforms to the requirements of this section from a qualified insurer or risk retention group. This insurance may be in the form of a separate insurance policy or an endorsement to an existing insurance policy.

(2) Each insurance policy shall be amended by an endorsement worded as specified in 10 CSR 20-11 Appendix, Form 3 (see 10 CSR 20-11.115) or evidenced by a certificate of insurance worded as specified in 10 CSR 20-

11 Appendix, Form 4 (see 10 CSR 20-11.115).

(3) Each insurance policy shall be issued by an insurer or a risk retention group that, at a minimum, is licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in this state.

AUTHORITY: sections 319.114, RSMo (Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993). * Original rule filed Feb. 7, 1991, effective Aug. 30, 1991.

*Original authority: 319.114, RSMo (1989) and 644.026, RSMo (1972), amended 1973, 1987, 1993.

10 CSR 20-11.098 Surety Bond

PURPOSE: This rule describes the requirements for use of a surety bond as evidence of financial responsibility.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) An owner or operator may satisfy the financial responsibility requirements of 10 CSR 20-11.093 by obtaining a surety bond that conforms to the requirements of this rule. The surety company issuing the bond must be among those listed as acceptable sureties on federal bonds in the latest Circular 570 of the United States Department of the Treasury.

(2) The surety bond shall be worded as specified in 10 CSR 20-11 Appendix, Form 5 (see 10 CSR 20-11.115).

(3) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. In all cases the surety's liability is limited to the per occurrence and annual aggregate penal sums.

(4) The owner or operator who uses a surety bond to satisfy the requirements of 10 CSR 20-11.093 shall establish a standby trust fund when the surety bond is acquired. Under the terms of the bond, all amounts paid by the surety under the bond will be deposited directly into the standby trust fund in accor-

dance with instructions from the director under 10 CSR 20-11.108. This standby trust fund shall meet the requirements specified in 10 CSR 20-11.103.

AUTHORITY: sections 319.114, RSMo (Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993). * Original rule filed Feb. 7, 1991, effective Aug. 30, 1991.

*Original authority: 319.114, RSMo (1989) and 644.026, RSMo (1972), amended 1973, 1987, 1993.

10 CSR 20-11.099 Letter of Credit

PURPOSE: This rule describes the requirements for use of a letter of credit as evidence of financial responsibility.

(1) An owner or operator may satisfy the financial responsibility requirements of 10 CSR 20-11.093 by obtaining an irrevocable standby letter of credit that conforms to the requirements of this section. The issuing institution must be an entity that has the authority to issue letters of credit in each state where used and whose letter of credit operations are regulated and examined by a federal or state agency.

(2) The letter of credit must be worded as specified in 10 CSR 20-11 Appendix, Form 6 (see 10 CSR 20-11.115).

(3) An owner or operator who uses a letter of credit to satisfy the requirements of 10 CSR 20-11.093 shall also establish a standby trust fund when the letter of credit is acquired. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the director will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the director under 10 CSR 20-11.108. This standby trust fund must meet the requirements specified in 10 CSR 20-11.103.

(4) The letter of credit shall be irrevocable with a term specified by the issuing institution. The letter of credit must provide that credit be automatically renewed for the same term as the original term unless, at least one hundred twenty (120) days before the current expiration date, the issuing institution notifies the owner or operator by certified mail of its decision not to renew the letter of credit. Under the terms of the letter of credit, the one hundred twenty (120) days will begin on the date when the owner or operator receives the notice as evidenced by the return receipt.

AUTHORITY: sections 319.114, RSMo (Cum. Supp. 1989) and 644.026, RSMo (Cum.

Supp. 1993). * Original rule filed Feb. 7, 1991, effective Aug. 30, 1991.

*Original authority: 319.114, RSMo (1989); 319.129, RSMo (1989), amended 1991, 1996; and 644.026, RSMo (1972), amended 1973, 1987, 1993.

10 CSR 20-11.101 Petroleum Storage Tank Insurance Fund

PURPOSE: This rule describes the requirements for use of the Petroleum Storage Tank Insurance Fund for demonstrating financial responsibility.

(1) An owner or operator may satisfy part of the financial responsibility requirements of 10 CSR 20-11.093 for underground storage tanks (USTs) located in this state from the Petroleum Storage Tank Insurance Fund. In addition, any other combination of mechanisms may be used to supplement coverage provided by the Petroleum Storage Tank Insurance Fund so that the sum of the mechanisms provides the required amount of assurance.

AUTHORITY: sections 319.114, RSMo (1994) and 319.129 and 644.026, RSMo (Cum. Supp. 1996). * Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Amended: Filed Jan. 14, 1997, effective Sept. 30, 1997.

*Original authority: 319.114, RSMo (1989); and 319.129, RSMo (1989), amended 1991, 1996; and 644.026, RSMo (1972), amended 1973, 1987, 1993.

10 CSR 20-11.102 Trust Fund

PURPOSE: This rule describes the requirements for use of a trust fund for demonstrating financial responsibility.

(1) An owner or operator may satisfy the financial responsibility requirements of 10 CSR 20-11.093 by establishing a trust fund that conforms to the requirements of this rule. The trustee shall be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal agency or an agency of the state in which the fund is established.

(A) The wording of the trust agreement shall be identical to the wording for a standby trust fund in 10 CSR 20-11.103(2) and shall be accompanied by a formal certification of acknowledgment for a standby trust fund in 10 CSR 20-11.103(3).

(B) The trust fund, when established, shall be funded for the full required amount of cov-

erage or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining required coverage.

(C) If the value of the trust fund is greater than the required amount of coverage, the owner or operator may submit a written request to the director for release of the excess.

(D) If other financial assurance as specified in 10 CSR 20-11.090—10 CSR 20-11.115 is substituted for all or part of the trust fund, the owner or operator may submit a written request to the director for release of the excess.

(E) Within sixty (60) days after receiving a request from the owner or operator for release of funds as specified in subsection (1)(C) or (D) of this rule, the director will instruct the trustee to release to the owner or operator those funds the director specifies in writing.

AUTHORITY: sections 319.114, RSMo (Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993). * Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994.

*Original authority: 319.114, RSMo (1989) and 644.026, RSMo (1972), amended 1973, 1987, 1993.

10 CSR 20-11.103 Standby Trust Fund

PURPOSE: This rule describes the requirements for a standby trust fund.

(1) An owner or operator using any one (1) of the mechanisms authorized by 10 CSR 20-11.096, 10 CSR 20-11.098 or 10 CSR 20-11.099 shall establish a standby trust fund when the mechanism is acquired. The trustee of the standby trust fund shall be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal agency or an agency of this state.

(2) The standby trust agreement must be worded as specified in 10 CSR 20-11 Appendix, Form 7 (see 10 CSR 20-11.115).

(3) The standby trust agreement must be accompanied by a formal certification of acknowledgment as specified in 10 CSR 20-11 Appendix, Form 8 (see 10 CSR 20-11.115).

(4) The director will instruct the trustee to refund the balance of the standby trust fund to the provider of financial assurance if the director determines that no additional correc-

tive action costs or third-party liability claims will occur as a result of a release covered by the financial assurance mechanism for which the standby trust fund was established.

(5) An owner or operator may establish one (1) trust fund as the depository mechanism for all funds assured in compliance with this rule.

AUTHORITY: sections 319.114, RSMo (Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993). * Original rule filed Feb. 7, 1991, effective Aug. 30, 1991.

*Original authority: 319.114, RSMo (1989) and 644.026, RSMo (1972), amended 1973, 1987, 1993.

10 CSR 20-11.104 Substitution of Financial Assurance Mechanisms by Owner or Operator

PURPOSE: This rule describes the requirements for the substitution of financial assurance mechanisms for demonstration of financial responsibility.

(1) An owner or operator may substitute any alternate financial assurance mechanisms as specified in 10 CSR 20-11.090—10 CSR 20-11.115, provided that at all times s/he maintains an effective financial assurance mechanism or combination of mechanisms that satisfies the requirements of 10 CSR 20-11.093.

(2) After obtaining alternate financial assurance as specified in 10 CSR 20-11.090—10 CSR 20-11.115, an owner or operator may cancel a financial assurance mechanism by providing notice to the provider of financial assurance.

AUTHORITY: sections 319.114, RSMo (Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993). * Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994.

*Original authority: 319.114, RSMo (1989) and 644.026, RSMo (1972), amended 1973, 1987, 1993.

10 CSR 20-11.105 Cancellation or Nonrenewal by a Provider of Financial Assurance

PURPOSE: This rule requires providers of financial responsibility to notify the department of impending cancellation or nonrenewal of any financial assurance mechanism.

(1) Except as otherwise provided, a provider of financial assurance may cancel or fail to renew an assurance mechanism by sending a

notice of termination by certified mail to the owner or operator. Notice of termination shall comply with the following requirements:

(A) Termination of a guarantee, a surety bond or a letter of credit shall not occur until one hundred twenty (120) days after the date on which the owner or operator receives the notice of termination as evidenced by the return receipt; and

(B) Termination of insurance or risk retention group coverage, except for nonpayment or misrepresentation by the insured or state-funded assurance, shall not occur until sixty (60) days after the date on which the owner or operator receives the notice of termination as evidenced by the return receipt. Termination for nonpayment of premium or misrepresentation by the insured may not occur until a minimum of ten (10) days after the date on which the owner or operator receives the notice of termination as evidenced by the return receipt.

(2) If a provider of financial responsibility cancels or fails to renew for reasons other than incapacity of the provider as specified in 10 CSR 20-11.110, the owner or operator shall obtain alternate coverage as specified in this section within sixty (60) days after receipt of the notice of termination. If the owner or operator fails to obtain alternate coverage within sixty (60) days after receipt of the notice of termination, the owner or operator shall notify the director of the failure and submit—

(A) The name and address of the provider of financial assurance;

(B) The effective date of termination; and

(C) The evidence of the financial assurance mechanism subject to the termination maintained in accordance with 10 CSR 20-11.107(2).

AUTHORITY: sections 319.114, RSMo (Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993). * Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994.

*Original authority: 319.114, RSMo (1989) and 644.026, RSMo (1972), amended 1973, 1987, 1993.

10 CSR 20-11.106 Reporting by Owner or Operator

PURPOSE: This rule requires owners and operators to show evidence of financial responsibility to the department.

Editor's Note: The secretary of state has determined that the publication of this rule in

its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) An owner or operator shall submit the appropriate forms listed in 10 CSR 20-11.107(2) documenting current evidence of financial responsibility to the director—

(A) Within thirty (30) days after the owner or operator identifies a release from an underground storage tank (UST) required to be reported under 10 CSR 20-10.053 or 10 CSR 20-10.061;

(B) If the owner or operator fails to obtain alternate coverage as required by 10 CSR 20-11.090—10 CSR 20-11.115 within thirty (30) days after the owner or operator receives notice of—

1. Commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), *United States Code*, naming a provider of financial assurance as a debtor;

2. Suspension or revocation of the authority of a provider of financial assurance to issue a financial assurance mechanism;

3. Failure of a guarantor to meet the requirements of the financial test;

4. Other incapacity of a provider of financial assurance; or

(C) As required by 10 CSR 20-11.095(7) and 10 CSR 20-11.105(2).

(2) An owner or operator shall certify compliance with the financial responsibility requirements of 10 CSR 20-11.090—10 CSR 20-11.115 as specified in the new tank notification form (see 10 CSR 20-10.022) when notifying the department of the installation of a new UST under 10 CSR 20-10.022.

(3) The director may require an owner or operator to submit evidence of financial assurance as described in 10 CSR 20-11.107(2) or other information relevant to compliance with 10 CSR 20-11.090—10 CSR 20-11.115 at any time.

AUTHORITY: sections 319.114, RSMo (Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993). * Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994.

*Original authority: 319.114, RSMo (1989) and 644.026, RSMo (1972), amended 1973, 1987, 1993.

10 CSR 20-11.107 Recordkeeping

PURPOSE: This rule describes the records that owners and operators must maintain for their financial responsibility instruments.

(1) Owners or operators shall maintain evidence of all financial assurance mechanisms used to demonstrate financial responsibility under 10 CSR 20-11.090 through 10 CSR 20-11.115 for an underground storage tank (UST) until released from the requirements of 10 CSR 20-11.090 through 10 CSR 20-11.115 under 10 CSR 20-11.109. An owner or operator shall maintain this evidence at the UST site or the owner's or operator's place of business. Records maintained off-site shall be made available upon request of the department.

(2) An owner or operator shall maintain the following types of evidence of financial responsibility:

(A) An owner or operator using an assurance mechanism specified in 10 CSR 20-11.095 through 10 CSR 20-11.100 or 10 CSR 20-11.102 or 10 CSR 20-11.112 through 10 CSR 20-11.115 shall maintain a copy of the instrument worded as specified;

(B) An owner or operator using a financial test or guarantee shall maintain a copy of the chief financial officer's letter based on year-end financial statements for the most recent completed financial reporting year. This evidence shall be on file no later than one hundred twenty (120) days after the close of the financial reporting year;

(C) An owner or operator using a guarantee, surety bond or letter of credit shall maintain a copy of the signed standby trust fund agreement and copies of any amendments to the agreement;

(D) A local government owner or operator using a local government guarantee under 10 CSR 20-11.114(4) shall maintain a copy of the signed standby trust fund agreement and copies of any amendments to the agreement;

(E) A local government owner or operator using the local government bond rating test under 10 CSR 20-11.112 shall maintain a copy of its bond rating published within the last twelve (12) months by Moody's or Standard & Poor's;

(F) A local government owner or operator using the local government guarantee under 10 CSR 20-11.114, where the guarantor's demonstration of financial responsibility relies on the bond rating test under 10 CSR 20-11.112, shall maintain a copy of the guarantor's bond rating published within the last twelve (12) months by Moody's or Standard & Poor's;



(G) An owner or operator using an insurance policy or risk retention group coverage shall maintain a copy of the signed insurance policy or risk retention group coverage policy with the endorsement or certificate of insurance and any amendments to the agreements;

(H) An owner or operator covered by the Petroleum Storage Tank Insurance Fund must maintain on file a copy of any evidence of coverage supplied by or required by the department under 10 CSR 20-11.101(1);

(I) An owner or operator using a local government fund under 10 CSR 20-11.115 shall maintain the following documents:

1. A copy of the state constitutional provision or local government's statute, charter, ordinance or order dedicating the fund;

2. Year-end financial statements for the most recent completed financial reporting year showing the amount in the fund. If the fund is established under 10 CSR 20-11.115(1)(C) using incremental funding backed by bonding authority, the financial statements must show the previous year's balance, the amount of funding during the year and the closing balance in the fund; and

3. If the fund is established under 10 CSR 20-11.115(1)(C) using incremental funding backed by bonding authority, the owner or operator shall also maintain documentation of the required bonding authority, including either the results of a voter referendum (under 10 CSR 20-11.115 (1)(C)1.) or attestation by the state attorney general as specified under 10 CSR 20-11.115(1)(C)2.;

(J) A local government owner or operator using the local government guarantee supported by the local government fund shall maintain a copy of the guarantor's year-end financial statements for the most recent completed financial reporting year showing the amount of the fund; and

(K) An owner or operator using an assurance mechanism specified in 10 CSR 20-11.095 through 10 CSR 20-11.102 or 10 CSR 20-11.112 through 10 CSR 20-11.115 shall maintain an updated copy of a certification of financial responsibility worded as specified in 10 CSR 20-11 Appendix, Form 9 (see 10 CSR 20-11.115). The owner or operator shall update this certification whenever the financial assurance mechanism(s) used to demonstrate financial responsibility change(s).

AUTHORITY: sections 319.114, RSMo (1994) and 319.129 and 644.026, RSMo (Cum. Supp. 1996). * Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Amended: Filed Jan. 14, 1997, effective Sept. 30, 1997.

*Original authority: 319.114, RSMo (1989), 319.129, RSMo (1989), amended 1991, 1996; and 644.026, RSMo (1972), amended 1973, 1987, 1993.

10 CSR 20-11.108 Drawing on Financial Assurance Mechanisms

PURPOSE: This rule describes the procedures for draw down of financial responsibility mechanisms.

(1) Except as specified in section (4) of this rule, the director shall require the guarantor, surety or institution issuing a letter of credit to place the amount of funds stipulated by the director, up to the limit of funds provided by the financial assurance mechanism, into the standby trust if—

(A) The following conditions exist:

1. The owner or operator fails to establish alternate financial assurance within sixty (60) days after receiving notice of cancellation of the guarantee, surety bond, letter of credit or, as applicable, other financial assurance mechanism; and

2. The director determines or suspects that a release from an underground storage tank (UST) covered by the mechanism has occurred and so notifies the owner or operator, or the owner or operator has notified the director pursuant to 10 CSR 20-10.050-10 CSR 20-10.067 of a release from a UST covered by the mechanism; or

(B) The conditions of subsection (2)(A) or paragraph (2)(B)1. or 2. of this rule are satisfied.

(2) The director may draw on a standby trust fund when—

(A) The director makes a final determination that a release has occurred and immediate or long-term corrective action for the release is needed and the owner or operator, after appropriate notice and opportunity to comply, has not conducted corrective action as required in 10 CSR 20-10.060-10 CSR 20-10.067; or

(B) The director has received either—

1. Certification from the owner or operator and the third-party liability claimant(s), and from attorneys representing the owner or operator and the third-party liability claimant(s), that a third-party liability claim should be paid. The certification shall be worded as specified in 10 CSR 20-11 Appendix, Form 10 (see 10 CSR 20-11.115); or

2. A valid final court order establishing a judgment against the owner or operator for bodily injury or property damage caused by an accidental release from a UST covered by financial assurance under 10 CSR 20-

11.095-10 CSR 20-11.115 and the director determines that the owner or operator has not satisfied the judgment.

(3) If the director determines that the amount of corrective action costs and third-party liability claims eligible for payment under section (2) of this rule may exceed the balance of the standby trust fund and the obligation of the provider of financial assurance, the first priority for payment shall be corrective action costs necessary to protect human health and the environment. The director shall pay third-party liability claims in the order in which the director receives certifications under paragraph (2)(B)1. of this rule and valid court orders under paragraph (2)(B)2. of this rule.

(4) A governmental entity acting as guarantor under 10 CSR 20-11.114(7), the local government guarantee without standby trust, shall make payments as directed by the director under the circumstances described in 10 CSR 20-11.108(1)-(3).

AUTHORITY: sections 319.114, RSMo (Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993). * Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994.

*Original authority: 319.114, RSMo (1989) and 644.026, RSMo (1972), amended 1973, 1987, 1993.

10 CSR 20-11.109 Release From the Requirements

PURPOSE: This rule describes when an owner or operator is released from financial responsibility requirements.

(1) An owner or operator is no longer required to maintain financial responsibility under 10 CSR 20-11.090-10 CSR 20-11.115 for an underground storage tank (UST) after the tank has been properly closed, or if corrective action is required, after corrective action has been completed and the tank has been properly closed as required by 10 CSR 20-10.070-10 CSR 20-10.074.

AUTHORITY: sections 319.114, RSMo (Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993). * Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994.

*Original authority: 319.114, RSMo (1989) and 644.026, RSMo (1972), amended 1973, 1987, 1993.

10 CSR 20-11.110 Bankruptcy or Other Incapacity of Owner or Operator, or Provider of Financial Assurance

PURPOSE: *The owner or operator, or financial assurance provider shall notify the department of bankruptcy proceedings affecting the availability of financial responsibility.*

Editor's Note: *The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.*

(1) Within ten (10) days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), *United States Code*, naming an owner or operator as debtor, the owner or operator shall notify the director by certified mail of the commencement and submit the appropriate forms listed in 10 CSR 20-11.107(2) documenting current financial responsibility.

(2) Within ten (10) days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), *United States Code*, naming a guarantor providing financial assurance as debtor, this guarantor shall notify the owner or operator by certified mail of the commencement as required under the terms of the guarantee specified in 10 CSR 20-11.096.

(3) Within ten (10) days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), *United States Code*, naming a local government owner or operator as debtor, the local government owner or operator shall notify the director by certified mail of the commencement and submit the appropriate forms listed in 10 CSR 20-11.107(2) documenting current financial responsibility.

(4) Within ten (10) days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), *United States Code*, naming a guarantor providing a local government financial assurance as debtor, this guarantor shall notify the local government owner or operator by certified mail of the commencement as required under the terms of the guarantee specified in 10 CSR 20-11.106.

(5) An owner or operator who obtains financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial assurance in the event of a bankruptcy or incapacity of its provider of financial assurance, or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, insurance policy, risk retention group coverage policy, surety bond or letter of credit. The owner or operator shall obtain alternate financial assurance as specified in 10 CSR 20-11.090 through 10 CSR 20-11.115 within thirty (30) days after receiving notice of the event. If the owner or operator does not obtain alternate coverage within thirty (30) days after notification, s/he shall notify the director.

(6) Within thirty (30) days after receipt of notification that the Petroleum Storage Tank Insurance Fund has become incapable of paying for assured corrective action or third-party compensation costs, the owner or operator shall obtain alternate financial assurance.

AUTHORITY: *sections 319.114, RSMo (1994) and 319.129 and 644.026, RSMo (Cum. Supp. 1996). * Original rule filed Feb. 7, 1991, effective Aug. 30, 1991. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Amended: Filed Jan. 14, 1997, effective Sept. 30, 1997.*

**Original authority: 319.114, RSMo (1989), 319.129, RSMo (1989), amended 1991, 1996; and 644.026, RSMo (1972), amended 1973, 1987, 1993.*

10 CSR 20-11.111 Replenishment of Guarantees, Letters of Credit or Surety Bonds

PURPOSE: *This rule describes requirements that the owner or operator maintain financial responsibility mechanism at a fully funded level.*

(1) If at any time after a standby trust is funded upon the instruction of the director with funds drawn from a guarantee, letter of credit or surety bond and the amount in the standby trust is reduced below the full amount of coverage required, the owner or operator, by the anniversary date of the financial mechanism from which the funds were drawn shall—

(A) Replenish the value of financial assurance to equal the full amount of coverage required; or

(B) Acquire another financial assurance mechanism for the amount by which funds in the standby trust have been reduced.

(2) For purposes of this rule, the full amount of coverage required is the amount of coverage to be provided by 10 CSR 20-11.093. If a combination of mechanisms was used to provide the assurance funds which were drawn upon, replenishment shall occur by the earliest anniversary date among the mechanisms.

AUTHORITY: *sections 319.114, RSMo (Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993). * Original rule filed Feb. 7, 1991, effective Aug. 30, 1991.*

**Original authority: 319.114, RSMo (1989) and 644.026, RSMo (1972), amended 1973, 1987, 1993.*

10 CSR 20-11.112 Local Government Bond Rating Test

PURPOSE: *This rule describes the requirements for use of a local government bond rating test for demonstrating financial responsibility.*

(1) A general purpose local government owner or operator, local government, or both, serving as a guarantor may satisfy the requirements of 10 CSR 20-11.093 by having a currently outstanding issue(s) of general obligation bonds of one (1) million dollars or more, excluding refunded obligations, with a Moody's rating of Aaa, Aa, A or Baa, or a Standard & Poor's rating of AAA, AA, A or BBB. Where a local government has multiple outstanding issues, or where a local government's bonds are rated by both Moody's and Standard and Poor's, the lowest rating shall be used to determine eligibility. Bonds that are backed by credit enhancement other than municipal bond insurance may not be considered in determining the amount of applicable bonds outstanding.

(2) A local government owner or operator or local government serving as a guarantor that 1) is not a general purpose local government and 2) does not have the legal authority to issue general obligation bonds may satisfy the requirements of 10 CSR 20-11.093 by—

(A) Having a currently outstanding issue(s) of revenue bonds of one (1) million dollars or more, excluding refunded issues; and

(B) Having a Moody's rating of Aaa, Aa, A or Baa, or a Standard & Poor's rating of AAA, AA, A or BBB as the lowest rating for any rated revenue bond issued by the local government. Where bonds are rated by both Moody's and Standard and Poor's, the lower rating for each bond shall be used to determine eligibility. Bonds that are backed by credit enhancement may not be considered in

determining the amount of applicable bonds outstanding.

(3) The local government owner or operator, guarantor, or both, shall maintain a copy of its bond rating published within the last twelve (12) months by Moody's or Standard & Poor's.

(4) To demonstrate that it meets the local government bond rating test, the chief financial officer of a general purpose local government owner or operator, guarantor, or both, shall sign a letter worded as specified in 10 CSR 20-11 Appendix, Form 11 (see 10 CSR 20-11.115).

(5) To demonstrate that it meets the local government bond rating test, the chief financial officer of local government owner or operator, guarantor, or both, shall sign a letter worded as specified in 10 CSR 20-11 Appendix, Form 12 (see 10 CSR 20-11.115).

(6) The director may require reports of financial condition at any time from the local government owner or operator, local government guarantor, or both. If the director finds, on the basis of the reports or other information, that the local government owner or operator, guarantor, or both, no longer meets the local government bond rating test requirements of 10 CSR 20-11.112, the local government owner or operator shall obtain alternative coverage within thirty (30) days after notification of the finding.

(7) If a local government owner or operator using the bond rating test to provide financial assurance finds that it no longer meets the bond rating test requirements, the local government owner or operator shall obtain alternative coverage within one hundred fifty (150) days of the change in status.

AUTHORITY: sections 319.114, RSMo (Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993). * Original rule filed Aug. 3, 1993, effective April 9, 1994.

*Original authority: 319.114, RSMo (1989) and 644.026, RSMo (1972), amended 1973, 1987, 1993.

10 CSR 20-11.113 Local Government Financial Test

PURPOSE: This rule describes the requirements for use of a local government financial test for demonstrating financial responsibility.

(1) A local government owner or operator may satisfy the requirements of 10 CSR 20-11.093 by passing the financial test specified in this rule. To be eligible to use the financial test, the local government owner or operator shall have the ability and authority to assess and levy taxes or to freely establish fees and charges.

(2) To pass the local government financial test, the owner or operator must meet the criteria of subsections (2)(B) and (C) of this rule based on year-end financial statements for the latest completed fiscal year:

(A) The local government owner or operator must have the following information available, as shown in the year-end financial statements for the latest completed fiscal year—

1. Total revenues. Consists of the sum of general fund operating and nonoperating revenues including net local taxes, licenses and permits, fines and forfeitures, revenues from use of money and property, charges for services, investment earnings, sales (property, publications, and the like), intergovernmental revenues (restricted and unrestricted) and total revenues from all other governmental funds including enterprise, debt service, capital projects and special revenues, but excluding revenues to funds held in a trust or agency capacity. For purposes of this test, the calculation of total revenues shall exclude all transfers between funds under the direct control of the local government using the financial test (interfund transfers), liquidation of investments and issuance of debt.

2. Total expenditures. Consists of the sum of general fund operating and nonoperating expenditures including public safety, public utilities, transportation, public works, environmental protection, cultural and recreational, community development, revenue sharing, employee benefits and compensation, office management, planning and zoning, capital projects, interest payments on debt, payments for retirement of debt principal and total expenditures from all other governmental funds including enterprise, debt service, capital projects and special revenues. For purposes of this test, the calculation of total expenditures shall exclude all transfers between funds under the direct control of the local government using the financial test (interfund transfers).

3. Local revenues. Consists of total revenues (as defined in paragraph (2)(A)1. of this rule) minus the sum of all transfers from other governmental entities, including all monies received from federal, state or local government sources.

4. Debt service. Consists of the sum of all interest and principal payments on all

long-term credit obligations and all interest-bearing short-term credit obligations. Includes interest and principal payments on general obligation bonds, revenue bonds, notes, mortgages, judgments and interest-bearing warrants. Excludes payments on non-interest-bearing short-term obligations, inter-fund obligations, amounts owed in a trust or agency capacity, and advances and contingent loans from other governments.

5. Total funds. Consists of the sum of cash and investment securities from all funds, including general, enterprise, debt service, capital projects and special revenue funds, but excluding employee retirement funds, at the end of the local government's financial reporting year. Includes federal securities, federal agency securities, state and local government securities, and other securities such as bonds, notes and mortgages. For purposes of this test, the calculation of total funds shall exclude agency funds, private trust funds, accounts receivable, value of real property, and other nonsecurity assets.

6. Population consists of the number of people in the area served by the local government.

(B) The local government's year-end financial statements, if independently audited, cannot include an adverse auditor's opinion or a disclaimer of opinion. The local government cannot have outstanding issues of general obligation or revenue bonds that are rated as less than investment grade.

(C) The local government owner or operator shall have a letter signed by the chief financial officer worded as specified in section (3) of this rule.

(3) To demonstrate that it meets the financial test under section (2) of this rule, the chief financial officer of the local government owner or operator, shall sign, within one hundred twenty (120) days of the close of each financial reporting year, as defined by the twelve (12)-month period for which financial statements used to support the financial test are prepared, a letter worded as specified in 10 CSR 20-11 Appendix, Form 13 (see 10 CSR 20-11.115).

(4) If a local government owner or operator using the test to provide financial assurance finds that it no longer meets the requirements of the financial test based on the year-end financial statements, the owner or operator shall obtain alternative coverage within one hundred fifty (150) days of the end of the year for which financial statements have been prepared.

(5) The director may require reports of financial condition at any time from the local government owner or operator. If the director finds, on the basis of the reports or other information, that the local government owner or operator no longer meets the financial test requirements of 10 CSR 20-11.113(2) and (3), the owner or operator shall obtain alternate coverage within thirty (30) days after notification of the finding.

(6) If the local government owner or operator fails to obtain alternate assurance within one hundred fifty (150) days of finding that it no longer meets the requirements of the financial test based on the year-end financial statements or within thirty (30) days of notification by the director that it no longer meets the requirements of the financial test, the owner or operator shall notify the director of the failure within ten (10) days.

AUTHORITY: sections 319.114, RSMo (Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993). * Original rule filed Aug. 3, 1993, effective April 9, 1994.

*Original authority: 319.114, RSMo (1989) and 644.026, RSMo (1972), amended 1973, 1987, 1993.

10 CSR 20-11.114 Local Government Guarantee

PURPOSE: This rule describes the requirements for a local government guarantee of financial responsibility.

(1) A local government owner or operator may satisfy the requirements of 10 CSR 20-11.093 by obtaining a guarantee that conforms to the requirements of this rule. The guarantor must be either the state in which the local government owner or operator is located or a local government having a substantial governmental relationship with the owner and operator and issuing the guarantee as an act incident to that relationship. A local government acting as the guarantor shall demonstrate that it meets the—

(A) Bond rating test requirement of 10 CSR 20-11.112 and deliver a copy of the chief financial officer's letter as contained in 10 CSR 20-11.112(4) or (5) to the local government owner or operator;

(B) Worksheet test requirements of 10 CSR 20-11.113 and deliver a copy of the chief financial officer's letter as contained in 10 CSR 20-11.113(3) to the local government owner or operator; or

(C) Local government fund requirements of 10 CSR 20-11.115(1)(A), (B) or (C) and deliver a copy of the chief financial officer's

letter as contained in 10 CSR 20-11.115 to the local government owner or operator.

(2) If the local government guarantor is unable to demonstrate financial assurance under any of 10 CSR 20-11.112, 10 CSR 20-11.113, 10 CSR 20-11.115(1)(A), (B) or (C), at the end of the financial reporting year, the guarantor shall send by certified mail, before cancellation or nonrenewal of the guarantee, notice to the owner or operator. The guarantee will terminate no less than one hundred twenty (120) days after the date the owner or operator receives the notification, as evidenced by the return receipt. The owner or operator shall obtain alternative coverage as specified in 10 CSR 20-11.110(5).

(3) The guarantee agreement shall be worded as specified in 10 CSR 20-11 Appendix, Form 14 or 15 (see 10 CSR 20-11.115), depending on which of the following alternative guarantee arrangements is selected, if in the default or incapacity of the owner or operator, the guarantor guarantees to—

(A) Fund a standby trust as directed by the director, the guarantee shall be worded as specified in 10 CSR 20-11 Appendix, Form 14 (see 10 CSR 20-11.115);

(B) Make payments as directed by the director for taking corrective action or compensating third parties for bodily injury and property damage, the guarantee shall be worded as specified in 10 CSR 20-11 Appendix, Form 15 (see 10 CSR 20-11.115).

(4) If the guarantor is the state, the local government guarantee with standby trust shall be worded as specified in 10 CSR 20-11 Appendix, Form 14 (see 10 CSR 20-11.115).

(5) If the guarantor is a local government, the local government guarantee with standby trust shall be worded as specified in 10 CSR 20-11 Appendix, Form 15 (see 10 CSR 20-11.115).

(6) If the guarantor is the state, the local government guarantee without standby trust shall be worded as specified in 10 CSR 20-11 Appendix, Form 16 (see 10 CSR 20-11.115).

(7) If the guarantor is a local government, the local government guarantee without standby trust shall be worded as specified in 10 CSR 20-11 Appendix, Form 17 (see 10 CSR 20-11.115).

AUTHORITY: sections 319.114, RSMo (Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993). * Original rule filed Aug. 3, 1993, effective April 9, 1994.

*Original authority: 319.114, RSMo (1989) and 644.026, RSMo (1972), amended 1973, 1987, 1993.

10 CSR 20-11.115 Local Government Fund

PURPOSE: This rule describes the requirements for use of a local government fund for demonstrating financial responsibility.

(1) A local government owner or operator may satisfy the requirements of 10 CSR 20-11.093 by establishing a dedicated fund account that conforms to the requirements of this rule. Except as specified in subsection (1)(B) of this rule, a dedicated fund may not be commingled with other funds or otherwise used in normal operations. A dedicated fund will be considered eligible if it meets one (1) of the following requirements:

(A) The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance or order to pay for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks (USTs) and is funded for the full amount of coverage required under 10 CSR 20-11.093, or funded for part of the required amount of coverage and used in combination with other mechanisms that provides the remaining coverage; or

(B) The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance, or order as a contingency fund for general emergencies, including taking corrective action and compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, and is funded for five (5) times the full amount of coverage required under 10 CSR 20-11.093, or funded for part of the required amount of coverage and used in combination with other mechanisms that provide the remaining coverage. If the fund is funded for less than five (5) times the amount of coverage required under 10 CSR 20-11.093, the amount of financial responsibility demonstrated by the fund may not exceed one-fifth (1/5) the amount in the fund; or

(C) The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance or order to pay for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs. A payment is made to the fund once every year

for seven (7) years until the fund is fully-funded. This seven (7)-year period is referred to as the pay-in-period. The amount of each payment shall be determined by this formula:

$$\frac{TF - CF}{Y}$$

where:

TF = the total required financial assurance for the owner or operator;

CF = the current amount in the fund; and

Y = the number of years remaining in the pay-in-period.

1. The local government owner or operator has available bonding authority, approved through voter referendum (if this approval is necessary prior to the issuance of bonds), for an amount equal to the difference between the required amount of coverage and the amount held in the dedicated fund. This bonding authority shall be available for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs; or

2. The local government owner or operator has a letter signed by the appropriate state attorney general stating that the use of the bonding authority will not increase the local government's debt beyond the legal debt ceilings established by the relevant state laws. The letter must also state that prior voter approval is not necessary before use of the bonding authority.

(2) To demonstrate that it meets the requirements of the local government fund, the chief financial officer of the local government owner or operator, guarantor, or both, shall sign a letter worded exactly as specified in 10 CSR 20-11 Appendix, Form 18 (see 10 CSR 20-11.115).

AUTHORITY: sections 319.114, RSMo (Cum. Supp. 1989) and 644.026, RSMo (Cum. Supp. 1993).^{*} Original rule filed Aug. 3, 1993, effective April 9, 1994.

^{*}Original authority: 319.114, RSMo (1989) and 644.026, RSMo (1972), amended 1973, 1987, 1993.

APPENDIX
Wording of Financial Assurance Instruments
Form 1—Letter from Chief Financial Officer

The following text should be used to comply with the requirements of 10 CSR 20-11.095(4) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Letter from Chief Financial Officer

I am the chief financial officer of [insert name and address of the owner or operator or guarantor]. This letter is in support of the use of [insert "the financial test of self insurance" and/or "guarantee"] to demonstrate financial responsibility for [insert "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert "sudden accidental releases" and/or "nonsudden accidental releases"] in the amount of at least \$[insert dollar amount] per occurrence and \$[insert dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this financial test by this [insert "owner or operator" and/or "guarantor"]:
 [List for each facility: the name and address of the facility where tanks assured by this financial test are located and whether tanks are assured by this financial test by the tank identification number provided in the notification submitted pursuant to 10 CSR 20-10.022].

A [insert "financial test" and/or "guarantee"] is also used by this [insert "owner or operator" or "guarantor"] to demonstrate financial responsibility in the following amounts under other EPA regulations or state programs authorized by EPA under 40 CFR parts 271 and 145:

Federal Rules

Closure (264.143 and 265.143)	\$
Post-Closure Care (264.145 and 265.145)	\$
Liability Coverage (264.147 and 265.147)	\$
Corrective Action (264.101(b))	\$
Plugging and Abandonment (144.63)	\$
Closure	\$
Post-Closure Care	\$
Liability Coverage	\$
Corrective Action	\$
Plugging and Abandonment	\$
Total	\$

This [insert "owner or operator" or "guarantor"] has not received an adverse opinion, a disclaimer of opinion or a "going concern" qualification from an independent auditor on his/her financial statements for the latest completed fiscal year.

[Fill in the information for Alternative I if the criteria of 10 CSR 20-11.095(2) are being used to demonstrate compliance with the financial test requirements. Fill in the information for Alternative II if the criteria of 10 CSR 20-11.095(3) are being used to demonstrate compliance with the financial test requirements.]

Alternative I

1. Amount of annual UST aggregate coverage being assured by a financial test or guarantee	\$
2. Amount of corrective action, closure and post-closure care costs, liability coverage, and plugging and abandonment costs covered by a financial test or guarantee	\$
3. Sum of lines one and two	\$
4. Total tangible assets	\$
5. Total liabilities (if any of the amount reported on line three is included in total liabilities, you may deduct that amount from this line and add that amount to line six)	\$
6. Tangible net worth (subtract line five from line four)	\$
Yes _____ No _____	
7. Is line six at least ten (10) million dollars?	
8. Is line six at least ten (10) times line three?	

9. Have financial statements for the latest fiscal year been filed with the Securities and Exchange Commission?
10. Have financial statements for the latest fiscal year been filed with the Energy Information Administration?
11. Have financial statements for the latest fiscal year been filed with the Rural Electrification Administration?
12. Has financial information been provided to Dunn and Bradstreet and has Dunn and Bradstreet provided a financial strength rating of 4A or 5A? (Answer "Yes" only if both criteria have been met.)

Alternative II

1. Amount of annual UST aggregate coverage being assured by a test or guarantee \$
2. Amount of corrective action, closure and post-closure care costs, liability coverage, and plugging and abandonment costs covered by a financial test or guarantee \$
3. Sum of lines one and two \$
4. Total tangible assets \$
5. Total liabilities (if any of the amount reported on line three is included in total liabilities, you may deduct that amount from this line and add that amount to line six) \$
6. Tangible net worth (subtract line five from line four) \$
7. Total assets in the United States (required only if less than ninety percent (90%) of assets are located in the United States) \$
- _____ Yes _____ No
8. Is line six at least ten (10) million dollars?
9. Is line six at least six (6) times line three?
10. Are at least ninety percent (90%) of assets located in the United States? (If "No" complete line eleven)
11. Is line seven at least six (6) times line three?

(Fill in either lines twelve through fifteen or lines sixteen through eighteen)

12. Current assets \$
13. Current liabilities \$
14. Net working capital (subtract line thirteen from line twelve) \$
- _____ Yes _____ No
15. Is line fourteen at least six (6) times line three?
16. Current bond rating of most recent bond issue
17. Name of rating service
18. Date of maturity of bond \$
19. Have financial statements for the latest fiscal year been filed with the SEC, the Energy Information Administration or the Rural Electrification Administration?

(If "No," please attach a report from an independent certified public accountant certifying that there are no material differences between the data as reported in lines four through eighteen above and the financial statements for the latest fiscal year.)

(For both Alternative I and Alternative II complete the certification with this statement.)

"I hereby certify that the wording of this letter is identical to the wording specified in 10 CSR 20-11.095(4) as such rules were constituted on the date shown immediately below."

[Signature]

[Name]

[Title]

[Date]

APPENDIX Form 2—Guarantee

The following text should be used to comply with the requirements of 10 CSR 20-11.096(3) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Guarantee

Guarantee made this [date] by [name of guaranteeing entity], a business entity organized under the laws of the State of [], herein referred to as guarantor, to the Department of Natural Resources and to any and all third parties and obligees on behalf of [owner or operator] of [business address].

Recitals

(A) Guarantor meets or exceeds the financial test criteria of 10 CSR 20-11.095(2) or 10 CSR 10.095(3) and 10 CSR 10.095(4) and agrees to comply with the requirements for guarantors as specified in 10 CSR 20-11.096(2).

(B) [Owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one (1) instrument is used to assure different tanks at any one (1) facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 10 CSR 20-10.022, and the name and address of the facility.] This guarantee satisfies 10 CSR 20-11.090—10 CSR 20-11.115 requirements for assuring funding for [insert "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert dollar amount] per occurrence and [insert dollar amount] annual aggregate.

(C) [Insert appropriate phrase: "On behalf of our subsidiary" (if guarantor is corporate parent of the owner or operator); "On behalf of our affiliate" (if guarantor is a related firm of the owner or operator); or "Incident to our business relationship with" (if guarantor is providing the guarantee as an incident to a substantial business relationship with owner or operator)] [owner or operator], guarantor guarantees to department and to any and all third parties that:

In the event that [owner or operator] fails to provide alternate coverage within sixty (60) days after receipt of a notice of cancellation of this guarantee and the director has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon instructions from the director, shall fund a standby trust fund in accordance with the provisions of 10 CSR 20-11.112, in an amount not to exceed the coverage limits specified above.

In the event that the director determines that [owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with 10 CSR 20-10.060—10 CSR 20-10.067, the guarantor upon written instructions from the director, shall fund a standby trust in accordance with the provisions of 10 CSR 20-11.108 in an amount not to exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s) or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor upon written instructions from the director, shall fund a standby trust in accordance with the provisions of 10 CSR 20-11.112 to satisfy such judgment(s), award(s) or settlement agreement(s) up to the limits of coverage specified above.

(D) Guarantor agrees that if, at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet the financial test criteria of 10 CSR 20-11.095(2) or 10 CSR 10.095(3) and 10 CSR 10.095(4), guarantor shall send within one hundred twenty (120) days of such failure, by certified mail, notice to [owner or operator]. The guarantee will terminate one hundred twenty (120) days from the date of receipt of the notice by [owner or operator], as evidenced by the return receipt.

(E) Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), United States Code, naming guarantor as debtor, within ten (10) days after commencement of the proceeding.

(F) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 10 CSR 20-10.010—10 CSR 20-11.115.

(G) Guarantor agrees to remain bound under this guarantee for so long as [owner or operator] must comply with the applicable financial responsibility requirements of 10 CSR 20-11.090—10 CSR 20-11.115 for the above-identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than one hundred twenty (120) days after receipt of such notice by [owner or operator], as evidenced by the return receipt.

(H) The guarantor's obligation does not apply to any of the following:

1. Any obligation of [insert owner or operator] under Workers' Compensation, disability benefits or unemployment compensation law or other similar law;
2. Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];
3. Bodily injury or property damage arising from the ownership, maintenance, use or entrustment to others of any aircraft, motor vehicle or watercraft;



4. Property damage to any property owned, rented, loaned to, in the care, custody, or control of or occupied by *[insert owner or operator]* that is not the direct result of a release from a petroleum underground storage tank;

5. Bodily injury or property damage for which *[insert owner or operator]* is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 10 CSR 20-11.093.

(I) Guarantor expressly waives notice of acceptance of this guarantee by the department, by any or all third parties or by *[owner or operator]*.

I hereby certify that the wording of this guarantee is identical to the wording specified in 10 CSR 20-11.096(3) as such rules were constituted on the effective date shown immediately below.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

APPENDIX
Form 3—Endorsement

The following text should be used to comply with the requirements of 10 CSR 20-11.097(2) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

(A) Endorsement

Name: *[name of each covered location]*

Address: *[address of each covered location]*

Policy Number:

Period of Coverage: *[current policy period]*

Name of *[Insurer or Risk Retention Group]*:

Address of *[Insurer or Risk Retention Group]*:

Name of Insured:

Address of Insured:

Endorsement:

1. This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering the following underground storage tanks:

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one (1) instrument is used to assure different tanks at any one (1) facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted for 10 CSR 20-10.022 and the name and address of the facility.]

for *[insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental release;" in accordance with and subject to the limits of liability, exclusions, conditions and other terms of the policy; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location]* arising from operating the underground storage tank(s) identified above.

The limits of liability are *[insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location]*, exclusive of legal defense costs which are subject to a separate limit under the policy. This coverage is provided under *[policy number]*. The effective date of said policy is *[date]*.

2. The insurance afforded with respect to such occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provisions inconsistent with subparagraphs A through E of this paragraph are hereby amended to conform with subparagraphs A through E:

A. Bankruptcy or insolvency of the insured shall not relieve the *["Insurer" or "Group"]* of its obligations under the policy to which this endorsement is attached.

B. The *["Insurer" or "Group"]* is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third-party, with a right of reimbursement by the insured for any such payment made by the *["Insurer" or "Group"]*. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in 10 CSR 20-11.095 through 10 CSR 20-11.102.

C. Whenever requested by the director, the *["Insurer" or "Group"]* agrees to furnish to the director a signed duplicate original of the policy and all endorsements.

D. Cancellation or any other termination of the insurance by the *["Insurer" or "Group"]*, except for non-payment of premium or misrepresentation by the insured, will be effective only upon written notice and only after the expiration of sixty (60) days after a copy of such written notice is received by the insured. Cancellation for non-payment of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of ten (10) days after a copy of such written notice is received by the insured.

[Insert for claims-made policies]

E. The insurance covers claims otherwise covered by the policy that are reported to the *["Insurer" or "Group"]* within six (6) months of the effective date of cancellation or non-renewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability and exclusions of the policy.]

I hereby certify that the wording of this instrument is identical to the wording in 10 CSR 20-11.097(2)(A) and that the *["Insurer" or "Group"]* is *["licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in this state"]*.

[Signature of authorized representative of Insurer or Risk Retention Group]

[Name of person signing]

[Title of person signing]

Authorized Representative of *[Name of Insurer or Risk Retention Group]*

[Address of Representative]



APPENDIX
Form 4—Certificate of Insurance

The following text should be used to comply with the requirements of 10 CSR 20-11.097(2) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Certificate of Insurance

Name: [name of each covered location]

Address: [address of each covered location]

Policy Number:

Endorsement (if applicable):

Period of Coverage: [current policy period]

Name of [Insurer or Risk Retention Group]:

Address of [Insurer or Risk Retention Group]:

Name of Insured:

Address of Insured:

Certification:

1. [Name of Insurer or Risk Retention Group], [the "Insurer" or "Group"], as identified above, hereby certifies that it has issued liability insurance covering the following underground storage tank(s):

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one (1) instrument is used to assure different tanks at any one (1) facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 10 CSR 20-10.022 and the name and address of the facility.]

for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases;" in accordance with and subject to the limits of liability, exclusions, conditions and other terms of the policy; if coverage is different for different tanks or locations: indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tank(s) identified above.

The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location], exclusive of legal defense costs, which are subject to a separate limit under the policy. This coverage is provided under [policy number]. The effective date of said policy is [date].

2. The ["Insurer" or "Group"] further certifies the following with respect to the insurance described in Paragraph 1:

A. Bankruptcy or insolvency of the insured shall not relieve the ["Insurer" or "Group"] of its obligations under the policy to which this certificate applies.

B. The ["Insurer" or "Group"] is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third-party, with a right of reimbursement by the insured for any such payment made by the ["Insurer" or "Group"]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in 10 CSR 20-11.095 through 10 CSR 20-11.102.

C. Whenever requested by the director, the ["Insurer" or "Group"] agrees to furnish to the director a signed duplicate original of the policy and all endorsements.

D. Cancellation or any other termination of the insurance by the ["Insurer" or "Group"], except for nonpayment of premium or misrepresentation by the insured, will be effective only upon written notice and only after the expiration of sixty (60) days after a copy of such written notice is received by the insured. Cancellation for nonpayment of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of ten (10) days after a copy of such written notice is received by the insured.

[Insert for claims-made policies]

E. The insurance covers claims otherwise covered by the policy that are reported to the ["Insurer" or "Group"] within six (6) months of the effective date of cancellation or nonrenewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable and prior to such policy renewal or termination date. Claims reported during such an extended reporting period are subject to the terms, conditions, limits, including limits of liability and exclusions of the policy.

I hereby certify that the wording of this instrument is identical to the wording in 10 CSR 20-11.097(2)(B) and that the ["Insurer" or "Group"] is [licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in this state].

[Signature of authorized representative of Insurer]

[Type name]

[Title]

Authorized Representative of [Name of Insurer or Risk Retention Group]

[Address of Representative]

APPENDIX
Form 5—Performance Bond

The following text should be used to comply with the requirements of 10 CSR 20-11.098(2) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Performance Bond

Date bond executed:

Period of coverage:

Principal: [legal name and business address of owner or operator]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation (if applicable):

Surety(ies): [name(s) and business address(es)]

Scope of Coverage: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one (1) instrument is used to assure different tanks at any one (1) facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 10 CSR 20-10.022 and the name and address of the facility. List the coverage guaranteed by the bond: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases" "arising from operating the underground storage tank"].

Penal sums of bond :

Per occurrence \$

Annual aggregate \$

Surety's bond number :

Know All Persons by These Presents, that we, the Principal and Surety(ies), hereto are firmly bound to the department, in the above penal sums for the payment of which we bind ourselves, our heirs, executors, administrators, successors and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-Sureties, we, the Sureties, bind ourselves in such sums jointly and severally only for the purpose of allowing a joint action(s) against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sums only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sums.

Whereas said Principal is required under Subtitle I of the Resource Conservation and Recovery Act (RCRA), as amended, to provide financial assurance for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tanks identified above, and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, therefore, the conditions of the obligation are such that if the Principal shall faithfully ["take corrective action, in accordance with 10 CSR 20-10.060—10 CSR 20-10.067 and the director's instructions for," and/or "compensate injured third parties for bodily injury and property damage caused by" either "sudden" or "nonsudden" or "sudden and nonsudden"] accidental releases arising from operating the tank(s) identified above, or if the Principal shall provide alternate financial assurance, as specified in 10 CSR 20-10.090—10 CSR 20-11.115, within one hundred twenty (120) days after the date the notice of cancellation is received by the Principal from the Surety(ies), then this obligation shall be null and void; otherwise it is to remain in full force and effect.

Such obligation does not apply to any of the following:

(A) Any obligation of [insert owner or operator] under Workers' Compensation, disability benefits or unemployment compensation law or other similar law;

(B) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

(C) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle or watercraft;

(D) Property damage to any property owned, rented, loaned to, in the care, custody, or control of or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

(E) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 10 CSR 20-11.093.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by [the director] that the Principal has failed to ["take corrective action, in accordance with 10 CSR 20-10.060—10 CSR 20-10.067 and the director's instructions," and/or "compensate injured third parties"] as guaranteed by this bond, the Surety(ies) shall either

perform ["corrective action in accordance with 10 CSR 20-10.060—10 CSR 20-10.067 and the director's instructions," and/or "third-party liability compensation"] or place funds in an amount up to the annual aggregate penal sum into the standby trust fund as directed by the director under 10 CSR 20-11.108.

Upon notification by [the director] that the Principal has failed to provide alternate financial assurance within sixty (60) days after the date the notice of cancellation is received by the Principal from the Surety(ies) and that the director has determined or suspects that a release has occurred, the Surety(ies) shall place funds in an amount not exceeding the annual aggregate penal sum into the standby trust fund as directed by the director under 10 CSR 20-11.108.

The Surety(ies) hereby waive(s) notification of amendments to applicable laws, statutes and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment(s) shall amount in the annual aggregate to the penal sum shown on the face of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said annual aggregate penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal, provided, however, that cancellation shall not occur during the one hundred twenty (120) days beginning on the date of receipt of the notice of cancellation by the Principal as evidenced by the return receipt.

The Principal may terminate this bond by sending written notice to the Surety(ies).

In Witness Whereof, the Principal and Surety(ies) have executed this Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in 10 CSR 20-11.098(2) as such rules were constituted on the date this bond was executed.

PRINCIPAL

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate seal]

CORPORATE SURETY(IES)

[Name and address]

State of Incorporation:

Liability limit: \$

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[For every co-surety, provide signature(s), corporate seal and other information in the same manner as for Surety above.]

Bond premium: \$

APPENDIX

Form 6—Irrevocable Standby Letter of Credit

The following text should be used to comply with the requirements of 10 CSR 20-11.099(2) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Irrevocable Standby Letter of Credit

[Name and address of issuing institution]

[Name and address of director]

Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit No. in your favor, at the request and for the account of [owner or operator name] of [address] up to the aggregate amount of [in words] United States dollars (\$[insert dollar amount]), available upon presentation [insert, if more than one (1) state is a beneficiary, "by any one (1) of you"] of:

(A) Your sight draft, bearing reference to this letter of credit, No. , and

(B) Your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of Subtitle I of the Resource Conservation and Recovery Act of 1976, as amended."

This letter of credit may be drawn on to cover [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the underground storage tank(s) identified below in the amount of [in words] \$[insert dollar amount] per occurrence and [in words] \$[insert dollar amount] annual aggregate:

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one (1) instrument is used to assure different tanks at any one (1) facility, for each tank covered by this instrument, list the tank identification number provided by in the notification submitted pursuant to 10 CSR 20-10.022 and the name and address of the facility.]

The letter of credit may not be drawn on to cover any of the following:

1. Any obligation of [insert owner or operator] under a Workers' Compensation, disability benefits or unemployment compensation law or other similar law;

2. Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

3. Bodily injury or property damage arising from the ownership, maintenance, use or entrustment to others of any aircraft, motor vehicle or watercraft;

4. Property damage to any property owned, rented, loaned to, in the care, custody, or control of or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

5. Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 10 CSR 20-11.093.

This letter of credit is effective as of [date] and shall expire on [date], but such expiration date shall be automatically extended for a period of [at least the length of the original term] on [expiration date] and on each successive expiration date unless, at least one hundred twenty (120) days before the current expiration date, we notify [owner or operator] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event that [owner or operator] is so notified, any unused portion of the credit shall be available upon presentation of your sight draft for one hundred twenty (120) days after the date of receipt by [owner or operator], as shown on the signed return receipt.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us and we shall deposit the amount of the draft directly into the standby trust fund of [owner or operator], in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in 10 CSR 20-11.099(2) as such rules were constituted on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution]

[Date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce," or the "Uniform Commercial Code"].

APPENDIX

Form 7—Trust Agreement

The following text should be used to comply with the requirements of 10 CSR 20-11.102(6) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Trust Agreement

Trust agreement, the "Agreement" entered into as of [date] by and between [name of the owner or operator], a [name of state] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "Incorporated in the state of" or "a national bank"], the "Trustee."

Whereas, the Department of Natural Resources, "the department," an agency of the state of Missouri, has established certain regulations applicable to the Grantor, requiring that an owner or operator of an underground storage tank shall provide assurance that funds will be available when needed for corrective action and third-party compensation for bodily injury and property damage caused by sudden and non-sudden accidental releases arising from the operation of the underground storage tank;

Whereas, the Grantor has elected to establish [insert either "a guarantee," "surety bond," or "letter of credit"] to provide all or part of such financial assurance for the underground storage tanks identified herein and is required to establish a standby trust fund able to accept payments from the instrument (This paragraph is only applicable to the standby trust agreement.);

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee;

Now, therefore, the Grantor and the Trustee agree as follows:

1. Definitions

As used in this Agreement:

A. The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

B. The term "Trustee" means the Trustee who enters into the Agreement and any successor Trustee.

2. Identification of the Financial Assurance Mechanism.

This Agreement pertains to the [identify the financial assurance mechanism, either a guarantee, surety bond, or letter of credit, from which the standby trust fund is established to receive payments] (This paragraph is only applicable to the standby trust agreement).

3. Establishment of Fund.

The Grantor and the Trustee hereby establish a trust fund, the "Fund" for the benefit of department. The Grantor and the Trustee intend that no third-party have access to the Fund except as herein provided. (The Fund is established initially as a standby to receive payments and shall not consist of any property.) Payments made by the provider of financial assurance pursuant to the director's instructions are transferred to the Trustee and are referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor as provider of financial assurance, any payments necessary to discharge any liability of the Grantor established by the department.

4. Payment for ["Corrective Action" and/or "Third-Party Liability Claims"].

The Trustee shall make payments from the Fund as [the director] shall direct, in writing, to provide for the payment of the costs of [insert "taking corrective action" and/or compensating third parties for bodily injury and property damage caused by either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the tanks covered by the financial assurance mechanism identified in this Agreement.

The Fund may not be drawn upon to cover any of the following:

A. Any obligation of [insert owner or operator] under Workers' Compensation, disability benefits, or unemployment compensation law or other similar law;

B. Bodily injury to an employee of [insert owner or operator] arising from, and in the course of employment by [insert owner or operator];

C. Bodily injury or property damage arising from the ownership, maintenance, use or entrustment to others of any aircraft, motor vehicle or watercraft;

D. Property damage to any property owned, rented, loaned to, in the care, custody, or control of or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

E. Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 40 CFR 280.93.

The Trustee shall reimburse the Grantor, or other persons as specified by the director, from the Fund for corrective expenditures and/or third-party liability claims in such amounts as the director shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the director specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

5. Payments Comprising the Fund.

Payments made to the Trustee for the Fund shall consist of cash and securities acceptable to the Trustee.

6. Trustee Management.

The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time-to-time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his/her duties with respect to the trust fund solely in the interest of the beneficiaries and with care, skill, prudence and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims, except that:

A. Securities or other obligations of the Grantor, or any other owner or operator of the tanks, or any of their affiliates as defined in the Investment Company Act of 1940, 15 U.S.C. 80a-2(a), shall not be acquired or held, unless they are securities or other obligations of the federal or a state government;

B. The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and.

C. The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

7. Commingling and investment.

The Trustee is expressly authorized in its discretion:

A. To transfer from time-to-time any or all of the assets of the Fund to any common, commingled or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

B. To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1, including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

8. Express Powers of Trustee.

Without in any way limiting the powers and discretion conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

A. To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

B. To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

C. To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

D. To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal or state government; and

E. To compromise or otherwise adjust all claims in favor of or against the Fund.

9. Taxes and Expenses.

All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

10. Advice of Counsel.

The Trustee may from time-to-time consult with counsel, who may be counsel to the Grantor with respect to any questions arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of legal counsel.

11. Trustee Compensation.

The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

12. Successor Trustee.

The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in writing sent to the Grantor and the present Trustee by certified mail ten (10) days before such change becomes effective. Any expense incurred by the Trustee as a result of any of the acts contemplated by this section shall be paid as provided in paragraph 9 of this agreement.

13. Instructions to the Trustee.

All orders, requests and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Schedule B or such other designees as the Grantor may designate by amendment to Schedule B. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests and instructions. All orders, requests and instructions by the director to the Trustee shall be in writing, signed by the director, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the director hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests and instructions from the Grantor and/or the director, except as provided for herein.

14. Amendment of Agreement.

This Agreement may be amended by an instrument in writing executed by the Grantor and the Trustee, or by the Trustee and [the director] if the Grantor ceases to exist.

15. Irrevocability and Termination.

Subject to the right of the parties to amend this Agreement as provided in Section 14, this Trust shall be irrevocable and shall continue until terminated at the written direction of the Grantor and the Trustee, or by the Trustee and the director, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

16. Immunity and Indemnification.

The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the director issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

17. Choice of Law.

This Agreement shall be administered, construed and enforced according to the laws of the state of [insert name of state], or the Comptroller of the Currency in the case of National Association banks.

18. Interpretation.

As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each paragraph of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals (if applicable) to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in 10 CSR 20-11.103(2)(A) as such rules were constituted on the date written above.

[Signature of Grantor]

[Name of the Grantor]

[Title]

Attest:

[Signature of Trustee]

[Name of the Trustee]

[Title]

[Seal]

[Signature of Witness]

[Name of the Witness]

[Title]

[Seal]

APPENDIX

Form 8—Certification of Acknowledgments

The following text should be used to comply with the requirements of 10 CSR 20-11.102(3) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Certification of Acknowledgments

State of

County of

On this [date], before me personally came [owner or operator] to me known, who, being by me duly sworn, did depose and say that s/he resides at [address], that s/he is [title] of [corporation], the corporation described in and which executed the above instrument; that s/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that s/he signed her/his name thereto by like order.

[Signature of Notary Public]

[Name of Notary Public]

APPENDIX
Form 9—Certification of Financial
Responsibility

The following text should be used to comply with the requirements of 10 CSR 20-11.107(2)(K) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Certification of Financial Responsibility

[Owner or operator] hereby certifies that it is in compliance with the requirements of 10 CSR 20-11.090–10 CSR 20-11.115.

The financial assurance mechanism(s) used to demonstrate financial responsibility under 10 CSR 20-11.090–10 CSR 20-11.115 is (are) as follows:

[For each mechanism, list the type of mechanism, name of issuer, mechanism number (if applicable), amount of coverage, effective period of coverage and whether the mechanism covers "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases."]

[Signature of owner or operator]

[Name of owner or operator]

[Title]

[Date]

[Signature of witness or notary]

[Name of witness or notary]

[Date]

APPENDIX
Form 10—Certification of Valid Claim

The certification of valid claim must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Certification of Valid Claim

The undersigned, as principals and as legal representatives of *[insert owner or operator]* and *[insert name and address of third-party claimant]*, hereby certify that the claim of bodily injury (and/or) property damage caused by an accidental release arising from operating *[owner's or operator's]* underground storage tank should be paid in the amount of \$[].

[Signatures]

[Owner or Operator]

[Attorney for Owner or Operator]

[Notary]

[Date]

[Signatures]

[Claimant(s)]

[Attorney(s) for claimants(s)]

[Notary]

[Date]

APPENDIX
Wording of Financial Assurance Instruments
Form 11—General Purpose Local Government Bond Rating Test

The following text should be used to comply with the requirements of 10 CSR 20-11.112(4) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Letter from Chief Financial Officer

I am the chief financial officer of *[insert: name and address of local government owner or operator, or guarantor]*. This letter is in support of the use of the bond rating test to demonstrate financial responsibility for *[insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"]* caused by *[insert: "sudden accidental releases" and/or "nonsudden accidental releases"]* in the amount of at least *[insert: dollar amount]* per occurrence and *[insert: dollar amount]* annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this bond rating test: *[List for each facility: the name and address of the facility where tanks are assured by the bond rating test]*.

The details of the issue date, maturity, outstanding amount, bond rating, and bond rating agency of all outstanding bond issues that are being used by *[name of local government owner or operator, or guarantor]* to demonstrate financial responsibility are as follows: *[complete table]*

Issue Date

Maturity Date

Outstanding Amount

Bond Rating

Rating Agency *[Moody's or Standard & Poor's]*

The total outstanding obligation of *[insert amount]*, excluding refunded bond issues, exceeds the minimum amount of one (1) million dollars. All outstanding general obligation bonds issued by this government that have been rated by Moody's or Standard & Poor's are rated as at least investment grade (Moody's Baa or Standard & Poor's BBB) based on the most recent ratings published within the last twelve (12) months. Neither rating service has provided notification within the last twelve (12) months of downgrading of bond ratings below investment grade or of withdrawal of bond rating other than for repayment of outstanding bond issues.

I hereby certify that the wording of this letter is identical to the wording specified in 10 CSR 20-11.112(4) as the regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

APPENDIX

Form 12—Local Government Bond Rating Test

The following text should be used to comply with the requirements of 10 CSR 20-11.112(5) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Letter from Chief Financial Officer

I am the chief financial officer of *[insert: name and address of local government owner or operator, or guarantor]*. This letter is in support of the use of the bond rating test to demonstrate financial responsibility for *[insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"]* caused by *[insert: "sudden accidental releases" and/or "nonsudden accidental releases"]* in the amount of at least *[insert: dollar amount]* per occurrence and *[insert: dollar amount]* annual aggregate arising from operating (an) underground storage tank(s). This local government is not organized to provide general governmental services and does not have the legal authority under state law or constitutional provisions to issue general obligation debt.

Underground storage tanks at the following facilities are assured by this bond rating test: *[List for each facility: the name and address of the facility where tanks are assured by the bond rating test]*.

The details of the issue date, maturity, outstanding amount, bond rating, and bond rating agency of all outstanding revenue bond issues that are being used by *[name of local government owner or operator, or guarantor]* to demonstrate financial responsibility are as follows: *[complete table]*.

Issue Date

Maturity Date

Outstanding Amount

Bond Rating

Rating Agency *[Moody's or Standard & Poor's]*

The total outstanding obligation of *[insert amount]*, excluding refunded bond issues, exceeds the minimum amount of one (1) million dollars. All outstanding revenue bonds issued by this government that have been rated by Moody's or Standard & Poor's are rated as at least investment grade (Moody's Baa or Standard & Poor's BBB) based on the most recent ratings published within the last twelve (12) months. The revenue bonds listed are not backed by third-party credit enhancement or are insured by a municipal bond insurance company. Neither rating service has provided notification within the last twelve (12) months of downgrading of bond ratings below investment grade or of withdrawal of bond rating other than for repayment of outstanding bond issues.

I hereby certify that the wording of this letter is identical to the wording specified in 10 CSR 20-11.112(5) as the regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

APPENDIX

Form 13—Local Government Financial Test

The following text should be used to comply with the requirements of 10 CSR 20-11.113(3) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Letter from Chief Financial Officer

I am the chief financial officer of [insert: name and address of the owner or operator]. This letter is in support of the use of the local government financial test to demonstrate financial responsibility for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" and/or "nonsudden accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this financial test [List for each facility: the name and address of the facility where tanks assured by this financial test are located. If separate mechanisms or combinations of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test by the tank identification number provided in the notification submitted pursuant to 10 CSR 20-10.022].

This owner or operator has not received an adverse opinion, or a disclaimer of opinion from an independent auditor on its financial statements for the latest completed fiscal year. Any outstanding issues of general obligation or revenue bonds, if rated, have a Moody's rating of Aaa, Aa, A, or Baa or a Standard and Poor's rating of AAA, AA, A, or BBB; if rated by both firms, the bonds have a Moody's rating of Aaa, Aa, A, or Baa and a Standard and Poor's rating of AAA, AA, A, or BBB.

WORKSHEET FOR MUNICIPAL FINANCIAL TEST

Part I: Basic Information

1. Total Revenues

a. Revenues (dollars)

Value of revenues excludes liquidation of investments and issuance of debt. Value includes all general fund operating and nonoperating revenues, as well as all revenues from all other governmental funds including enterprise, debt service, capital projects, and special revenues, but excluding revenues to funds held in a trust or agency capacity.

b. Subtract interfund transfers (dollars)

c. Total Revenues (dollars)

2. Total Expenditures

a. Expenditures (dollars)

Value consists of the sum of general fund operating and nonoperating expenditures including interest payments on debt, payments for retirement of debt principal, and total expenditures from all other governmental funds including enterprise, debt service, capital projects, and special revenues.

b. Subtract interfund transfers (dollars)

c. Total Expenditures (dollars)

3. Local Revenues

a. Total Revenues (from 1c) (dollars)

b. Subtract total intergovernmental transfers (dollars)

c. Local Revenues (dollars)

4. Debt Service

a. Interest and fiscal charges (dollars)

b. Add debt retirement (dollars)

c. Total Debt Service (dollars)

5. Total Funds (dollars)

(Sum of amounts held as cash and investment securities from all funds, excluding amounts held for employee retirement funds, agency funds, and trust funds)

6. Population (persons)

Part II: Application of Test

7. Total Revenues to Population

- a. Total Revenues (from 1c)
- b. Population (from 6)
- c. Divide 7a by 7b
- d. Subtract 417
- e. Divide by 5.212
- f. Multiply by 4.095

8. Total Expenses to Population

- a. Total Expenses (from 2c)
- b. Population (from 6)
- c. Divide 8a by 8b
- d. Subtract 524
- e. Divide by 5401
- f. Multiply by 4.095

9. Local Revenues to Total Revenues

- a. Local Revenues (from 3c)
- b. Total Revenues (from 1c)
- c. Divide 9a by 9b
- d. Subtract .695
- e. Divide by .205
- f. Multiply by 2.840

10. Debt Services to Population

- a. Debt Service (from 4d)
- b. Population (from 6)
- c. Divide 10a by 10b
- d. Subtract 51
- e. Divide by 1038
- f. Multiply by -1.866

11. Debt Service to Total Revenues

- a. Debt Service (from 4d)
- b. Total Revenues (from 1c)
- c. Divide 11a by 11b
- d. Subtract .068
- e. Divide by .259
- f. Multiply by -3.533

12. Total Revenues to Total Expenses

- a. Total Revenues (from 1c)
- b. Total Expenses (from 2c)
- c. Divide 12a by 12b
- d. Subtract .910
- e. Divide by .899
- f. Multiply by 3.458

13. Funds Balance to Total Revenues

- a. Total Funds (from 5)
- b. Total Revenues (from 1c)
- c. Divide 13a by 13b
- d. Subtract .891
- e. Divide by 9.156
- f. Multiply by 3.270

14. Funds Balance to Total Expenses

- a. Total Funds (from 5)
- b. Total Expenses (from 2c)
- c. Divide 14a by 14b
- d. Subtract .866
- e. Divide by 6.409
- f. Multiply by 3.270

15. Total Funds to Population

- a. Total Funds (from 5)
- b. Population (from 6)
- c. Divide 15a by 15b
- d. Subtract 270
- e. Divide by 4548
- f. Multiply by 1.866

16. Add $7f + 8f + 9f + 10f + 11f + 12f + 13f + 14f + 15f + 4.937$

I hereby certify that the financial index shown on line 16 of the worksheet is greater than zero and that the wording of this letter is identical to the wording specified in 10 CSR 20-11.113(3) as the regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

APPENDIX

Form 14—Local Government Guarantee With Standby Trust Made by a State

The following text should be used to comply with the requirements of 10 CSR 20-11.114(4) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Local Government Guarantee With Standby Trust Made by a State

Guarantee made this [date] by [name of state], herein referred to as guarantor, to [the state implementing agency] and to any and all third parties, and obligees, on behalf of [local government owner or operator].

Recitals

1. Guarantor is the state.
2. [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 10 CSR 20-10 and 11, and the name and address of the facility]. This guarantee satisfies 10 CSR 20-11.090-10 CSR 20-11.115 requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert dollar amount] per occurrence and [insert dollar amount] annual aggregate.
3. Guarantor guarantees to [implementing agency] and to any and all third parties that:
In the event that [local government owner or operator] fails to provide alternative coverage within sixty (60) days after receipt of a notice of cancellation of this guarantee and the [director of the implementing agency] has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon instructions from the [director] shall fund a standby trust fund in accordance with the provisions of 10 CSR 20-11.108, in an amount not to exceed the coverage limits specified above.
In the event that the [director] determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with 10 CSR 20-10.060-10 CSR 20-10.067, the guarantor upon written instructions from the [director] shall fund a standby trust fund in accordance with the provisions of 10 CSR 20-11.108, in an amount not to exceed the coverage limits specified above.
If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from the injury or damage, the guarantor, upon written instructions from the [director], shall fund a standby trust in accordance with the provisions of 10 CSR 20-11.108 to satisfy the judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.
4. Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), United States Code naming guarantor as debtor, within ten (10) days after commencement of the proceeding.
5. Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 10 CSR 20-10 and 11.
6. Guarantor agrees to remain bound under this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of 10 CSR 20-11.090-10 CSR 20-11.115 for the above-identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], the cancellation to become effective no earlier than one hundred twenty (120) days after receipt of the notice by [owner or operator], as evidenced by the return receipt.
7. The guarantor's obligation does not apply to any of the following:
 - A. Any obligation of [local government owner or operator] under a Workers' Compensation, disability benefits, or unemployment compensation law or other similar law;
 - B. Bodily injury to an employee of [insert: local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];
 - C. Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;
 - D. Property damage to any property owned, rented, loaded to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;
 - E. Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 10 CSR 20-11.093.

8. Guarantor expressly waives notice of acceptance of this guarantee by *[the implementing agency]*, by any or all third parties, or by *[local government owner or operator]*.

I hereby certify that the wording of this guarantee is identical to the wording specified in 10 CSR 20-11.114(4) as the rules were constituted on the effective date shown immediately below.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

APPENDIX

Form 15—Local Government Guarantee With Standby Trust Made by a Local Government

The following text should be used to comply with the requirements of 10 CSR 20-11.114(5) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Local Government Guarantee With Standby Trust Made By a Local Government

Guarantee made this [date] by [name of guaranteeing entity], a local government organized under the laws of [name of state], herein referred to as guarantor, to [the state implementing agency] and to any and all third parties, and obligees, on behalf of [local government owner or operator].

Recitals

1. Guarantor meets or exceeds [select one: the local government bond rating test requirements of 10 CSR 20-11.112, the local government financial test requirements of 10 CSR 20-11.113, or the local government fund under 10 CSR 20-11.115(1)(A), (B), or (C)].

2. [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 10 CSR 20-10 and 11, and the name and address of the facility]. This guarantee satisfies 10 CSR 20-11.090–10 CSR 20-11.115 requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases;" if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert dollar amount] per occurrence and [insert: dollar amount] annual aggregate.

3. Incident to our substantial governmental relationship with [local government owner or operator], guarantor guarantees to [implementing agency] and to any and all third parties that:

In the event that [local government owner or operator] fails to provide alternative coverage within sixty (60) days after receipt of a notice of cancellation of this guarantee and [the director of the implementing agency] has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon instructions from [the director] shall fund a standby trust fund in accordance with the provisions of 10 CSR 20-11.108, in an amount not to exceed the coverage limits specified above.

In the event that [the director] determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with 10 CSR 20-10.060–10 CSR 20-10.067, the guarantor upon written instructions from [the director] shall fund a standby trust fund in accordance with the provisions of 10 CSR 20-11.108, in an amount not to exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from the injury or damage, the guarantor, upon written instructions from [the director], shall fund a standby trust in accordance with the provisions of 10 CSR 20-11.108 to satisfy the judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

4. Guarantor agrees that, if at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet or exceed the requirements of the financial responsibility mechanism specified in paragraph (4)(B)1., guarantor shall send within one hundred twenty (120) days of the failure, by certified mail, notice to [local government owner or operator], as evidenced by the return receipt.

5. Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), United States Code naming guarantor as debtor, within ten (10) days after commencement of the proceeding.

6. Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 10 CSR 20-10 and 11.

7. Guarantor agrees to remain bound under this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of 10 CSR 20-11.090–10 CSR 20-11.115 for the above-identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], the cancellation to become effective no earlier than one hundred twenty (120) days after receipt of the notice by [owner or operator], as evidenced by the return receipt.

8. The guarantor's obligation does not apply to any of the following:

A. Any obligation of *[local government owner or operator]* under a Workers' Compensation, disability benefits, or unemployment compensation law or other similar law;

B. Bodily injury to an employee of *[insert: local government owner or operator]* arising from, and in the course of, employment by *[insert: local government owner or operator]*;

C. Bodily injury or property damage arising from the ownership, maintenance, use or entrustment to others of any aircraft, motor vehicle or watercraft;

D. Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by *[insert: local government owner or operator]* that is not the direct result of a release from a petroleum underground storage tank;

E. Bodily injury or property damage for which *[insert: owner or operator]* is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 10 CSR 20-11.093.

9. Guarantor expressly waives notice of acceptance of this guarantee by *[the implementing agency]*, by any or all third parties, or by *[local government owner or operator]*.

I hereby certify that the wording of this guarantee is identical to the wording specified in 10 CSR 20-11.114(5) as the rules were constituted on the effective date shown immediately below.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

APPENDIX

Form 16—Local Government Guarantee Without Standby Trust Made by a State

The following text should be used to comply with the requirements of 10 CSR 20-11.114(6) as follows, except that instructions in brackets are to be replaced with relevant information and the brackets deleted:

Local Government Guarantee Without Standby Trust Made by a State

Guarantee made this [date] by [name of state], herein referred to as guarantor, to [the state implementing agency] and to any and all third parties, and obligees, on behalf of [local government owner or operator].

Recitals

1. Guarantor is the state.

2. [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 10 CSR 20-10 and 11, and the name and address of the facility.]. This guarantee satisfies 10 CSR 20-11.090-10 CSR 20-11.115 requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases;" if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate.

3. Guarantor guarantees to [implementing agency] and to any and all third parties and obligees that:

In the event that [local government owner or operator] fails to provide alternative coverage within sixty (60) days after receipt of a notice of cancellation of this guarantee and the [director of the implementing agency] has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon written instructions from [the director] shall make funds available to pay for corrective actions and compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

In the event that [the director] determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of above-identified tank(s) in accordance with 10 CS0-10.060-10 CSR 20-10.067, the guarantor upon written instructions from [the director] shall make funds available to pay for corrective actions in an amount not exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden" accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from the injury or damage, the guarantor, upon written instructions from [the director], shall make funds available to compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

4. Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), United States Code naming guarantor as debtor, within ten (10) days after commencement of the proceeding.

5. Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 10 CSR 20-10 and 11.

6. Guarantor agrees to remain bound under this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of 10 CSR 20-11.090-10 CSR 20-11.115 for the above-identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], the cancellation to become effective no earlier than one hundred twenty (120) days after receipt of the notice by [owner or operator], as evidenced by the return receipt. If notified of a probable release, the guarantor agrees to remain bound to the terms of this guarantee for all charges arising from the release, up to the coverage limits specified above, notwithstanding the cancellation of the guarantee with respect to future releases.

7. The guarantor's obligation does not apply to any of the following:

A. Any obligation of [local government owner or operator] under a workers' compensation disability benefits, or unemployment compensation law or other similar law;

B. Bodily injury to an employee of [insert local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];

C. Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle or watercraft;

D. Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

E. Bodily injury or property damage for which [insert: owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 10 CSR 20-11.093.

8. Guarantor expressly waives notice of acceptance of this guarantee by *[the implementing agency]*, by any or all third parties, or by *[local government owner or operator]*.

I hereby certify that the wording of this guarantee is identical to the wording specified in 10 CSR 20-11.114(6) as the regulations were constituted on the effective date shown immediately below.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

APPENDIX

Form 17—Local Government Guarantee Without Standby Trust Made by a Local Government

The following text should be used to comply with the requirements of 10 CSR 20-11.114(7) as follows, except that instructions in brackets are to be replaced with relevant information and the brackets deleted:

Local Government Guarantee Without Standby Trust Made by a Local Government

Guarantee made this [date] by [name of guaranteeing entity], a local government organized under the laws of [name of state], herein referred to as guarantor, to [the state implementing agency] and to any and all third parties, and obligees, on behalf of [local government owner or operator].

Recitals

1. Guarantor meets or exceeds [select one: the local government bond rating test requirements of 10 CSR 20-11.112, the local government financial test requirements of 10 CSR 20-11.113, the local government fund under 10 CSR 20-11.115(1)(A), (B) or (C)].

2. [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 10 CSR 20-10 and 11, and the name and address of the facility.] This guarantee satisfies 10 CSR 20-11.090–10 CSR 20-11.115 requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate.

3. Incident to our substantial governmental relationship with [local government owner or operator], guarantor guarantees to [implementing agency] and to any and all third parties and obligees that:

In the event that [local government owner or operator] fails to provide alternative coverage within sixty (60) days after receipt of a notice of cancellation of this guarantee and the [director of the implementing agency] has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon written instructions from [the director] shall make funds available to pay for corrective actions and compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

In the event that [the director] determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with 10 CSR 20-10.060–10 CSR 20-10.067, the guarantor upon written instructions from [the director] shall make funds available to pay for corrective actions in an amount not to exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from the injury or damage, the guarantor, upon written instructions from [the director], shall make funds available to compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

4. Guarantor agrees that if at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet or exceed the requirements of the financial responsibility mechanism specified in paragraph (5)(B)1., guarantor shall send within one hundred twenty (120) days of the failure, by certified mail, notice to [local government owner or operator], as evidenced by the return receipt.

5. Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), United States Code naming guarantor as debtor, within ten (10) days after commencement of the proceeding.

6. Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 10 CSR 20-10 and 11.

7. Guarantor agrees to remain bound under this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of 10 CSR 20-11.090–10 CSR 20-11.115 for the above-identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], the cancellation to become effective no earlier than one hundred twenty (120) days after receipt of the notice by [owner or operator], as evidenced by the return receipt. If notified of a probable release, the guarantor agrees to remain bound to the terms of this guarantee for all charges arising from the release, up to the coverage limits specified above, notwithstanding the cancellation of the guarantee with respect to future releases.

8. The guarantor's obligation does not apply to any of the following:

A. Any obligation of [local government owner or operator] under a workers' compensation disability benefits, or unemployment compensation law or other similar law;

B. Bodily injury to an employee of [insert: local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];

C. Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle or watercraft;

D. Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

E. Bodily injury or property damage for which [insert: owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 10 CSR 20-11.093.

9. Guarantor expressly waives notice of acceptance of this guarantee by *[the implementing agency]*, by any or all third parties, or by *[local government owner or operator]*.

I hereby certify that the wording of this guarantee is identical to the wording specified in 10 CSR 20-11.114(7) as the regulations were constituted on the effective date shown immediately below.

Effective date:

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

APPENDIX
Form 18—Local Government Fund

The following text should be used to comply with the requirements of 10 CSR 20-11.115(1)(D) as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Letter from Chief Financial Officer

I am the chief financial officer of [insert: name and address of local government owner or operator, or guarantor]. This letter is in support of the use of the local government fund mechanism to demonstrate financial responsibility for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" and/or "nonsudden accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this local government fund mechanism: [List for each facility: the name and address of the facility where tanks are assured by the local government fund].

[Insert: "The local government fund is funded for the full amount of coverage required under 10 CSR 20-11.093, or funded for part of the required amount of coverage and used in combination with other mechanisms that provide the remaining coverage," or "The local government fund is funded for ten (10) times the full amount of coverage required under 10 CSR 20-11.093, or funded for part of the required amount of coverage and used in combination with other mechanisms that provide the remaining coverage," or "A payment is made to the fund once every year for seven (7) years until the fund is fully-funded] and [name of local government owner or operator] has [available bonding authority, approved through voter referendum, of an amount equal to the difference between the required amount of coverage and the amount held in the dedicated fund] or "A payment is made to the fund once every year for seven (7) years until the fund is fully-funded and I have attached a letter signed by the state attorney general stating that 1) the use of the bonding authority will not increase the local government's debt beyond the legal debt ceilings established by the relevant state laws and 2) that prior voter approval is not necessary before use of the bonding authority".

The details of the local government fund are as follows: Amount in Fund (market value of fund of close of last fiscal year):

[If fund balance is incrementally funded as specified in 10 CSR 20-11.107(1)(C), insert:

Amount added to fund in the most recently completed fiscal year:

Number of years remaining in the pay-in period:]

A copy of the state constitutional provision, or local government statute, charter, ordinance or order dedicating the fund is attached.

I hereby certify that the wording of this letter is identical to the wording specified in 10 CSR 20-11.115(1)(D) as the regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

Rules of

Department of Natural Resources

Division 20—Clean Water Commission

Chapter 12—State Underground Storage Tank Insurance Fund

Title	Page
10 CSR 20-12.010 Definitions (Rescinded March 30, 2000)	3
10 CSR 20-12.020 Petroleum Transport Load Fee (Rescinded March 30, 2000)	3
10 CSR 20-12.025 Eligibility (Rescinded March 30, 2000)	3
10 CSR 20-12.030 Participation Fee (Rescinded March 30, 2000)	3
10 CSR 20-12.040 Applications (Rescinded March 30, 2000)	3
10 CSR 20-12.045 Review of Applications (Rescinded March 30, 2000)	3
10 CSR 20-12.050 Proof of Integrity (Rescinded March 30, 2000)	3
10 CSR 20-12.060 General Reimbursement Procedures (Rescinded March 30, 2000)	3
10 CSR 20-12.061 Cleanup Costs Reimbursement Criteria (Rescinded March 30, 2000)	3
10 CSR 20-12.062 Third-Party Claims (Rescinded March 30, 2000)	3
10 CSR 20-12.070 Membership (Rescinded March 30, 2000)	3
10 CSR 20-12.080 Sites With Existing Contamination (Rescinded March 30, 2000)	3

Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 20—Clean Water Commission Chapter 12—State Underground Storage Tank Insurance Fund

10 CSR 20-12.010 Definitions (Rescinded March 30, 2000)

AUTHORITY: sections 319.100 and 319.129, RSMo 1994 and 319.131 and 319.137, RSMo Supp. 1995. Original rule filed Dec. 3, 1991, effective May 14, 1992. Emergency rule filed April 14, 1992, effective April 24, 1992, expired Aug. 21, 1992. Amended: Filed April 14, 1992, effective Jan. 15, 1993. Emergency amendment filed Nov. 9, 1995, effective Nov. 20, 1995, expired May 17, 1996. Amended: Filed Jan. 2, 1996, effective Aug. 30, 1996. Rescinded: Filed April 1, 1999, effective March 30, 2000.

10 CSR 20-12.020 Petroleum Transport Load Fee (Rescinded March 30, 2000)

AUTHORITY: sections 319.129, RSMo 1994 and 319.132 and 319.137, RSMo Supp. 1995. Emergency rule filed July 15, 1991, effective July 25, 1991, expired Nov. 21, 1991. Original rule filed July 15, 1991, effective Jan. 13, 1992. Emergency amendment filed Nov. 9, 1995, effective Nov. 20, 1995, expired May 17, 1996. Amended: Filed Jan. 2, 1996, effective Aug. 30, 1996. Rescinded: Filed April 1, 1999, effective March 30, 2000.

10 CSR 20-12.025 Eligibility (Rescinded March 30, 2000)

AUTHORITY: sections 319.129, RSMo 1994 and 319.131 and 319.137, RSMo Supp. 1995. Original rule filed June 1, 1995, effective Jan. 30, 1996. Amended: Filed Jan. 2, 1996, effective Aug. 30, 1996. Rescinded: Filed April 1, 1999, effective March 30, 2000.

10 CSR 20-12.030 Participation Fee (Rescinded March 30, 2000)

AUTHORITY: sections 319.133, RSMo Supp. 1991 and 644.026, RSMo Supp. 1993. Emergency rule filed April 14, 1992, effective April 24, 1992, expired Aug. 21, 1992. Original rule filed Dec. 3, 1991, effective

May 14, 1992. Rescinded: Filed April 1, 1999, effective March 30, 2000.

10 CSR 20-12.040 Applications (Rescinded March 30, 2000)

AUTHORITY: sections 319.131 and 644.026, RSMo 1994. Emergency rule filed April 14, 1992, effective April 24, 1992, expired Aug. 21, 1992. Original rule filed Dec. 3, 1991, effective May 14, 1992. Amended: Filed June 1, 1995, effective Jan. 30, 1996. Rescinded: Filed April 1, 1999, effective March 30, 2000.

10 CSR 20-12.045 Review of Applications (Rescinded March 30, 2000)

AUTHORITY: sections 319.129, 319.131 and 644.026, RSMo 1994. Emergency rule filed April 14, 1992, effective April 24, 1992, expired Aug. 21, 1992. Original rule filed Dec. 3, 1991, effective May 14, 1992. Amended: Filed Aug. 3, 1993, effective April 9, 1994. Amended: Filed June 1, 1995, effective Jan. 30, 1996. Rescinded: Filed April 1, 1999, effective March 30, 2000.

10 CSR 20-12.050 Proof of Integrity (Rescinded March 30, 2000)

AUTHORITY: sections 319.131 and 644.026, RSMo 1994. Emergency rule filed April 14, 1992, effective April 24, 1992, expired Aug. 21, 1992. Original rule filed Dec. 3, 1991, effective May 14, 1992. Amended: Filed June 1, 1995, effective Jan. 30, 1996. Rescinded: Filed April 1, 1999, effective March 30, 2000.

10 CSR 20-12.060 General Reimbursement Procedures (Rescinded March 30, 2000)

AUTHORITY: sections 319.129, RSMo 1994 and 319.131 and 319.137, RSMo Supp. 1995. Emergency rule filed April 14, 1992, effective April 24, 1992, expired Aug. 21, 1992. Original rule filed April 14, 1992, effective Jan. 15, 1993. Amended: Filed June 1, 1995, effective Jan. 30, 1996. Emergency amendment filed Nov. 9, 1995, effective Nov. 20, 1995, expired May 17, 1996. Amended: Filed Jan. 2, 1996, effective Aug. 30, 1996. Rescinded: Filed April 1, 1999, effective March 30, 2000.

10 CSR 20-12.061 Cleanup Costs Reimbursements Criteria (Rescinded March 30, 2000)

AUTHORITY: sections 319.111 and 319.129, RSMo 1994 and 319.109, 319.131 and 319.137, RSMo Supp. 1995. Emergency rule filed April 14, 1992, effective April 24, 1992, expired Aug. 21, 1992. Original rule filed April 14, 1992, effective Jan. 15, 1993. Amended: Filed Jan. 2, 1996, effective Aug. 30, 1996. Rescinded: Filed April 1, 1999, effective March 30, 2000.

10 CSR 20-12.062 Third-Party Claims (Rescinded March 30, 2000)

AUTHORITY: sections 319.129 and 319.131, RSMo Supp. 1991 and 644.026, RSMo Supp. 1993. Emergency rule filed April 14, 1992, effective April 24, 1992, expired Aug. 21, 1992. Original rule filed April 14, 1992, effective Jan. 15, 1993. Rescinded: Filed April 1, 1999, effective March 30, 2000.

10 CSR 20-12.070 Membership (Rescinded March 30, 2000)

AUTHORITY: sections 319.129 and 319.133, RSMo 1994 and 319.131 and 319.137, RSMo Supp. 1995. Emergency rule filed April 14, 1992, effective April 24, 1992, expired Aug. 21, 1992. Original rule filed Dec. 3, 1991, effective May 14, 1992. Amended: Filed June 1, 1995, effective Jan. 30, 1996. Amended: Filed Jan. 2, 1996, effective Aug. 30, 1996. Rescinded: Filed April 1, 1999, effective March 30, 2000.

10 CSR 20-12.080 Sites With Existing Contamination (Rescinded March 30, 2000)

AUTHORITY: sections 319.111 and 319.129, RSMo 1994 and 319.109, 319.131 and 319.137, RSMo Supp. 1995. Emergency rule filed July 17, 1995, effective July 27, 1995, expired Nov. 23, 1995. Emergency rule filed Nov. 9, 1995, effective Nov. 20, 1995, expired May 17, 1996. Original rule filed Jan. 2, 1996, effective Aug. 30, 1996. Rescinded: Filed April 1, 1999, effective March 30, 2000.



Rules of
Department of Natural Resources
Division 20—Clean Water Commission
Chapter 13—Underground Storage Tanks—
Administrative Penalties

Title	Page
10 CSR 20-13.080 Administrative Penalty Assessment	3



Title 10—DEPARTMENT OF NATURAL RESOURCES

Division 20—Clean Water Commission Chapter 13—Underground Storage Tanks—Administrative Penalties

10 CSR 20-13.080 Administrative Penalty Assessment

PURPOSE: This rule establishes the procedures for assessment of administrative penalties.

(1) General Provisions.

(A) Pursuant to section 319.127, RSMo, and in addition to any other remedy provided by law, upon determination by the director that a provision of sections 319.100–319.139, RSMo, or a standard, limitation, order or rule promulgated, or a term or condition of any permit has been violated, the director may issue an order assessing an administrative penalty upon the violator. The amount of the administrative penalty will be determined according to section (3) of this rule. In no event may the total penalty assessed per day of violation exceed the statutory maximum specified in section 319.127, RSMo.

(B) An administrative penalty shall not be imposed until the department has sought to resolve the violations through conference, conciliation and persuasion and shall not be imposed for minor violations. If the violation is resolved through conference, conciliation and persuasion, no administrative penalty shall be assessed unless the violation has caused, or had the potential to cause, a risk to human health or to the environment, or has caused or had the potential to cause pollution, or was knowingly committed, or is not a minor violation.

(C) An order assessing an administrative penalty shall be served upon the operator, owner or appropriate representative through United States Postal Service certified mail, return receipt requested, a private courier or messenger service which provides verification of delivery or by hand delivery to the operator's or owner's residence or place of business. An order assessing an administrative penalty shall be considered served if verified receipt is made by the operator's or owner's appropriate representative. A refusal to accept, or a rejection of certified mail, private courier or messenger service delivery or by hand delivery of an order assessing an administrative penalty constitutes service of the order.

(D) The program may, at any time, withdraw, without prejudice, any administrative order.

(E) An order assessing an administrative penalty shall describe the nature of the violation(s), the amount of the administrative penalty being assessed and the basis of the penalty calculation.

(2) Definitions.

(A) Definitions for key words used in this rule may be found in 10 CSR 20-10.012 and section 319.100, RSMo.

(B) Additional definitions specific to this rule are as follows:

1. Conference, conciliation and persuasion—A process of verbal or written communication, including but not limited to meetings, reports, correspondence or telephone conferences between authorized representatives of the department and the alleged violator. The process shall, at minimum, consist of one (1) offer to meet with the alleged violator tendered by the department. During any such meeting, the department and the alleged violator shall negotiate in good faith to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance;

2. Economic benefit—Any monetary gain which accrues to a violator as a result of noncompliance;

3. Gravity-based assessment—The degree of seriousness of a violation taking into consideration the risk to human health and the environment posed by the violation and considering the extent of deviation from sections 319.100–319.139, RSMo;

4. Minor violation—A violation which possesses a small potential to harm the environment or human health or cause pollution, was not knowingly committed, and is not defined by the United States Environmental Protection Agency as other than minor;

5. Multi-day violation—A violation which has occurred on or continued for two (2) or more consecutive or nonconsecutive days; and

6. Multiple violation penalty—The sum of individual administrative penalties assessed when two (2) or more violations are included in the same complaint or enforcement action.

(3) Determination of Penalties. The calculation of the amount of an administrative penalty will involve the application of a gravity-based assessment under subsection (3)(A) and may involve additional factors for multiple violations, (3)(B), multi-day violations, (3)(C), and economic benefit resulting from noncompliance, (3)(D). The resulting administrative penalty may be further adjusted as specified under (3)(E).

(A) Gravity-Based Assessment. The gravity-based assessment is determined by evaluating

the potential for harm posed by the violation and the extent to which the violation deviates from the requirements of the law.

1. Potential for harm. The potential for harm posed by a violation is based on the risk to human health or the environment or to the purposes of implementing the law and associated rules or permits.

A. The risk of exposure is dependent on both the likelihood that humans or the environment may be exposed to contaminants and the degree of potential exposure. Penalties will reflect the probability the violation either did result in or could have resulted in a release of contaminants in the environment, and the harm which either did occur or would have occurred if the release had in fact occurred.

B. Violations which may or may not pose a potential threat to human health or the environment, but which have an adverse effect upon the purposes of or procedures for implementing the law and associated rules or permits may be assessed a penalty.

C. The potential for harm shall be evaluated according to the following degrees of severity:

(I) Major. The violation poses or may pose a substantial risk to human health or to the environment, or has or may have a substantial adverse effect on the purposes of or procedures for implementing the law and associated rules and/or permits;

(II) Moderate. The violation poses or may pose a significant risk to human health or to the environment, or has or may have a significant adverse effect on the purposes of or procedures for implementing the law and associated rules and/or permits; and

(III) Minor. The violation does not pose significant or substantial risk to human health or to the environment, was not knowingly committed, and is not defined by the United States Environmental Protection Agency as other than minor.

2. Extent of deviation. The extent of deviation may range from slight to total disregard of the requirements of the law, and associated rules and permits. The assessment will reflect this range and will be evaluated according to the following degrees of severity:

A. Major. The violator has deviated substantially from the requirements of the law, associated rules, or permits resulting in substantial noncompliance;

B. Moderate. The violator has deviated significantly from the requirements of the law, associated rules, or permits resulting in significant noncompliance; and

C. Minor. The violator has deviated slightly from the requirements of the law,

associated rules, or permits that does not result in substantial or significant noncompliance; most provisions were implemented as intended; the violation was not knowingly committed; and is not defined by the United States Environmental Protection Agency as other than minor.

3. Gravity-based penalty assessment matrix. The matrix that follows will be used to determine the gravity-based assessment portion of the administrative penalty. Potential for harm and extent of deviation form the axes of the matrix. The penalty range selected may be adapted to the circumstances of a particular violation.

Gravity-Based Penalty Assessment Matrix

Potential for Harm	Extent of Deviation		
	Major	Moderate	Minor
Major	\$2,000-\$1,500	\$1,500-\$1,250	\$1,250-\$1,000
Moderate	\$1,000-\$750	\$750-\$500	\$500-\$250
Minor	\$250-\$200	\$125-\$100	\$0

(B) Multiple Violation Penalty. Penalties for multiple violations may be determined when a violation is independent of or substantially different from any other violation. The director may order a separate administrative penalty for that violation as set forth in this rule.

(C) Multi-Day Penalty. Penalties for multi-day violations may be determined when the director has concluded that a violation(s) has continued or occurred for more than one (1) day. Multi-day penalty assessments will be determined by using the Multi-Day Penalty Assessment Matrix that follows. The director may seek penalties for each day of noncompliance not to exceed the amount of the civil penalty specified in section 319.127, RSMo.

Multi-Day Penalty Assessment Matrix

Potential for Harm	Extent of Deviation		
	Major	Moderate	Minor
Major	\$1,000-\$200	\$800-\$150	\$600-\$110
Moderate	\$440-\$120	\$320-\$110	\$200-\$30
Minor	\$80-\$20	\$50-\$20	\$0

(D) Economic Benefit. Any economic benefits, including delayed and avoided costs that have accrued to the violator as a result of

noncompliance will be added to the penalty amount. Determination will be made by the department using an economic benefit formula that provides a reasonable estimate of the economic benefit of noncompliance. Economic benefit may be excluded from the administrative penalty if--

1. The economic benefit is an insignificant amount;

2. There are compelling public concerns that would not be served by taking a case to trial; or

3. It is unlikely that the department would be able to recover the economic benefit in litigation based on the particular case.

(E) Adjustments. The department may add to or subtract from the total amount of the penalty after consideration of the following adjustments:

1. Recalculation of penalty amount. After the issuance of an order by the department, if new information about a violation becomes available which indicates that the original penalty calculation may have been incorrect, the department may recalculate the penalty. No adjustments will be made once a settlement agreement has been signed by all parties;

2. Good faith efforts to comply. The department may adjust a penalty amount downward if good faith efforts have been adequately documented by the violator. Good faith efforts include, but are not limited to, documentation that the violator has reported noncompliance or instituted measures to remedy the violation prior to detection by the department. However, good faith efforts to achieve compliance after agency detection are assumed and are not grounds for decreasing the penalty amount;

3. Culpability. In cases of heightened culpability which do not meet the standard of criminal activity, the penalty may be increased at the department's discretion, within the ranges of the matrix. Likewise, in cases where there is a demonstrable absence of culpability, the department may decrease the penalty. Lack of knowledge of the law and any associated rule and/or permit shall not be a basis of decreased culpability. The following criteria will be used to determine culpability:

A. How much control the violator had over the events constituting the violation;

B. The foreseeability of the events constituting the violation;

C. Whether the violator took reasonable precautions against the events constituting the violation;

D. Whether the violator knew or should have known of the hazards associated with the conduct; and

E. Whether the violator knew or should have known of the legal requirement which was violated. This criteria shall be used only to increase a penalty, not to decrease it;

4. History of noncompliance. Where there has been a recent history of noncompliance with the law and any associated rule and/or permit, to a degree deemed significant due to frequency, similarity or seriousness of past violations, and considering the violator's response to previous enforcement actions, the department may increase the administrative penalty. No downward adjustment is allowed because of this factor;

5. Ability to pay. When a violator has adequately documented that payment of all or a portion of the administrative penalty will preclude the violator from achieving compliance or from carrying out important remedial measures, the department may--

A. Waive any of the administrative penalty; or

B. Negotiate a delayed payment schedule, installment plan or penalty reductions with stipulated penalties; and

6. Other adjustment factors. This rule allows for other penalty adjustments based on fairness and equity not mentioned in this rule which may arise on a case-by-case basis.

(4) The proceeds from any administrative penalty assessed in accordance with this rule shall be paid to the county treasurer of the county in which the violation(s) occurred for the use and benefit of the county schools.

(5) Natural Resource Damages. Nothing in this rule shall be construed as satisfying any claim by the state for natural resource damages.

AUTHORITY: sections 319.137 and 644.026, RSMo Supp. 1998. * Original rule filed Dec. 31, 1991, effective Aug. 6, 1992. Rescinded and readopted: Filed April 15, 1999, effective March 30, 2000.

*Original authority: 319.137, RSMo 1989, amended 1993, 1995 and 644.026, RSMo 1972, amended 1973, 1987, 1993, 1995.